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MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 26th March 1953

S.R.O. 738.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the All-India Industrial Tribunal (Bank Disputes), Bombay, in the dispute between certain banking companies and their workmen.

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

Between

The banking companies mentioned in Schedule I to the Government of India,
Ministry of Labour Notification No. S.R.O. 36, dated 5th January 1952.

and

Their Workmen

In the matter of an industrial dispute regarding the employees' pay scales,
dearness allowance, terms and conditions of their employment, etc.

PRESENT:

Sri S. Panchapagesa Sastry, *Chairman*,

Sri M. L. Tannan, *Member*,

Sri V. L. D'Souza, *Member*.

APPEARANCES:

(As in Appendix III)

AWARD

CHAPTER I

Introductory

SECTION 1—*The Reference*

By Notification No. S.R.O. 35, dated 5th January 1952 published in the Gazette of India Extraordinary Part II—Section 3, the Central Government in the Ministry of Labour, in exercise of the powers conferred by Section 7 of the Industrial Disputes Act, 1947 (Act XIV of 1947), and in supersession of their Notification No. S.R.O. 1678, dated 17th July 1951, constituted this Tribunal for the adjudication of industrial disputes concerning banking companies. The Tribunal consisted of :—

1. Sri S. Panchapagesa Sastry, retired Judge of the High Court of Judicature, Madras—*Chairman*.
2. Sri M. L. Tannan—*Member*.

3. Sri V. L. D' Souza, Professor of Economics, University of Mysore—Member.

2. Section 2, clause (bb) of the Industrial Disputes Act, 1947 defines a 'banking company' as follows:—

"Banking company" means a banking company as defined in Section 3 of the Banking Companies Act, 1949 (X of 1949), having branches or other establishments in more than one State, and includes the Imperial Bank of India."

In this definition the word 'State' was substituted for the word 'Province' by the Adaptation of Laws Order, 1950. Section 5 of the Banking Companies Act, 1949 (X of 1949), defines a 'banking company' in clause (c) as follows:—

"Banking company means any company which transacts business of banking in India".

Clause (b) states, " 'banking' means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise".

Clause (d) states, " 'company' means any company which may be wound up under the Indian Companies Act, 1913 (VII of 1913)".

The expression 'establishment' is not defined but it means a place of business at which deposits are received, cheques, cashed or moneys lent and includes a sub-office, pay-office and sub-pay office.

3. By a further Notification No. S.R.O. 36, dated 5th January, 1952, in exercise of the powers conferred by Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government referred to this Tribunal for adjudication the matters specified in Schedule II (being either matters in dispute or matters connected with, or relevant to, the dispute) as between employers and workmen in relation to all the banking companies specified in Schedule I to the said Notification. The Notifications are set out in *extenso* in Appendix I. It recites that the Central Government is of opinion that an industrial dispute exists between employers and workmen in relation to some of the banking companies specified in Schedule I and that it considers it desirable to refer for adjudication the matters specified in Schedule II which are either matters in dispute or matters connected with, or relevant to, the said dispute. Schedule I does not indicate the particular banks in relation to which "the Central Government is of opinion that an industrial dispute exists between employers and workmen". It was not necessary to do so because under the terms of Section 10, sub-section (5) of the Industrial Disputes Act, 1947, as amended, the Central Government has power, at the time of making the reference or at any time thereafter but before the submission of the award by order in writing to include in that reference any other establishment, group or class of establishments whether or not at the time of such inclusion any dispute exists or is apprehended in any of them, if the dispute referred is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in or affected by such dispute. This power can be exercised by the Central Government either on an application made to it in this behalf or otherwise. It was in exercise of such powers that the Central Government, being of opinion that the dispute existing between employers and workmen in relation to some of the banking companies is of such a nature that the other banking companies specified in Schedule I are likely to be interested in or affected by that dispute and that it is desirable to include those banking companies also in the reference to this Tribunal, included such other banking companies in Schedule I to Notification No. S.R.O. 36, dated 5th January 1952.

4. Schedule I comprises as many as 129 banks of which 68 are scheduled* banks and 61 non-scheduled banks with branches or other establishments in more than one State. The schedule also classifies the banks under other heads to which reference will be made later. It is sufficient at this stage to refer to the fact that a certain number of banks which are working under schemes of arrangement, or have suspended payments, or are granted moratorium, or are prohibited from accepting fresh deposits, are also included. Schedule II sets out a very comprehensive list of the matters in dispute between the employers and workmen in what may be described as 'banking industry'. There are as many as 34 items set out therein. Most of them relate to general matters applicable to banks as a whole

*Schedule banks are those which are for the time being included in Schedule II to the Reserve Bank of India Act, 1934.

or to groups of banks as may be classified under appropriate heads. By a subsequent Notification No. S.R.O. 655, dated 31st March, 1952 item No. 31 in Schedule II to Notification No. S.R.O. 36, dated 5th January 1952 was deleted and removed from the cognizance of this Tribunal. The item so deleted was as follows:—

"31. Absorption of Bharat Bank Employees in the Punjab National Bank Ltd. and their service conditions".

5. The Tribunal decided that notice to workmen should be given through banks and unions, asking them to send particulars of their demands and the grounds on which they were based. Statements of claims of the workmen or their Unions or Associations or Federations of unions were to be sent to this Tribunal and to the respective banks so as to reach them by 28th February 1952 and the banks were directed to send their replies by 27th March 1952. Accordingly, circular notices were issued by registered post to all the banking companies and to 116 unions of bank employees. Subsequently, on an application filed by the All India Bank Employees' Association, Bombay, the Tribunal extended the time limit for submission of demands by workmen to 11th March 1952 and also extended the time limit for banks to send their replies from 27th March to 11th April 1952. Banks were also directed to send copies of their replies to the employees' unions and the representatives of employees who had sent demands. In response to the above-mentioned notices, statements of demands were received from 108 unions and 80 elected representatives of employees all over the country, details of which are set out in the Table below arranged Statewise.

State	Regional Unions	Other Unions	Elected Representatives	Total
PART 'A'				
Assam . . . . .	..	..	..	..
Bihar	1	2	1	4
Bombay	5	21	27	53
Madhya Pradesh	1	2	1	4
Madras	1	14	14	29
Orissa . . . . .	..	..	..	..
East Punjab	1	3	4	
Uttar Pradesh	2	2	5	
West Bengal . . . . .	..	24	2	
PART 'B'				
Hyderabad	1	6	..	7
Madhya Bharat . . . . .	..	1	2	3
Mysore	1	1	1	3
Rajasthan	1	1	2	4
Saurashtra	1	1	1	3
Travancore-Cochin	2	..	13	15
PART 'C'				
Ajmer	1	..	1	2
Bhopal . . . . .	..	..	1	1
Delhi	1	11	3	15
Tripura . . . . .	..	..	1	1
Vindhya Pradesh . . . . .	..	..	1	1
	19	89	80	188

A list of the unions and elected representatives of employees referred to above is given in Appendix II.

8. The following table gives the distribution of the statements of claims received from the workmen arranged according to the classification of banks adopted in Notification No. S.R.O. 36, dated 5th January, 1952:

Group	Number*
Scheduled :	
Group A(i)	47
„ A(ii)	28
„ B	40
„ C	40
„ D	1
Non-Scheduled :	
Group (i)	13
Group (ii)	..
Total	169

*Excludes Regional Unions.

Similarly, the replies received from the banks are grouped in the following table:—

Group	Number†
Scheduled :	
Group A(i)	5
„ A(ii)	10
„ B	6
„ C	32
„ D	..
Non-Scheduled :	
Group (i)	3
„ (ii)	..
Total	56

†In addition to the above Displaced Banks Association has filed a reply.

7. The Tribunal fixed Bombay as the place where the general hearing of the dispute was to be held. The parties were accordingly intimated by a circular notice that the hearing would commence on 21st April, 1952 in the High Court Buildings, Bombay.

8. At the first hearing on 21st April 1952, several of the parties were represented by Counsel. There was a general agreement that both banks and workmen should be permitted to appear through Counsel. The Tribunal accordingly gave permission for legal practitioners to appear as desired by the parties.

9. The first question that was taken up for consideration related to the method of representation of workmen in the hearings before the Tribunal. It was the workmen and the Unions who pressed for directions on this matter. The banks did not ask for any directions or facilities. As quite a large number of requests had been received from the various unions of workmen for issue of directions to banks for affording facilities to the representatives of workmen to be present in Bombay for hearing, this question assumed great importance. The demands were that two representatives from each registered union of workmen should be permitted to attend the hearings and that directions should be given to the banks to pay the travelling expenses and halting allowances of such representatives. The Tribunal had to devise a suitable formula for ensuring effective representation of the case on behalf of the workmen.

10. By its order dated 24th April 1952, the Tribunal overruled the contention of the banks that there was no legal power to order the banks at that stage to defray the travelling expenses and daily halting allowances for stay at Bombay of the various representatives of employees who were permitted to come to Bombay. The Tribunal also gave certain directions as to the number of representatives that should be allowed to come and also as to payment for their travelling expenses and halting allowances. The hearing had then to be adjourned for a few days to enable the unions to select their representatives in terms of the order aforesaid and arrange for their presence in Bombay. Meanwhile the employees began to file a number of applications containing prayers some of which could be said to be by way of clarification of the previous order and some by way of supplementary directions, but in the main, the prayers were really for modification of the order requesting the Tribunal for increased representation. The result was that the Tribunal had before them as many as six such applications when the session was resumed on 5th May 1952. One more application was filed subsequently. Amongst these, the one that was filed by the All India Bank Employees' Association was a comprehensive one. It was urged that the directions given by the previous order were found to be inadequate and required revision. The matter was once again argued very fully. Ultimately, a supplementary order was passed by this Tribunal on 12th May 1952 providing for a larger representation of workmen and detailed directions were given. The said two orders are reported in 1952 (2) Labour Law Journal, page 54. The two orders taken together provided for adequate representation of the employees and were accepted as satisfactory.

11. The Tribunal commenced the regular hearing of the general issues on 16th June 1952 in the Legislative Assembly Hall, Bombay. The hearing proceeded thereafter continuously and lasted till 28th November 1952.

12. Although several unions had originally sent their demands separately, the All India Bank Employees' Association which claimed to have a very large number of Bank employees' Unions affiliated to it, undertook to present one charter of demands of the workmen in a consolidated and standardized manner on behalf of its various constituent unions. It was on this understanding and assurance that the time originally fixed for the employees to send their demands was extended. During the arguments before us demands were presented on behalf of—

- (1) The All India Bank Employees' Association;
- (2) the Imperial Bank of India Indian Staff Associations, Bengal Circle, Madras Circle and Bombay Circle (Poona);
- (3) certain unions of bank employees affiliated to the Indian National Trade Union Congress; and
- (4) employees' unions or Associations of certain Exchange Banks, like the Grindlays Bank, Chartered Bank of India, Australia and China, Lloyds Bank, National Bank of India, etc.

The employees' case was presented before us throughout by the four organizations aforesaid*. The undertaking given by the All India Bank Employees' Association was honourably implemented by it. This procedure helped the progress of the inquiry considerably and also strengthened the case of the employees in presenting their demands before us.

*Mr. A. S. R. Chari appeared for No. 1, Mr. C. L. Dudhja for No. 3 and Mr. V. V. Phadke for Nos. 2 and 4.

On behalf of the banks, the Imperial Bank of India and most of the Exchange Banks and the leading Indian Scheduled Banks had their own Counsel who represented their case. The special problems relating to small banks were placed before us by Counsel who appeared for some of them.

13. Towards the close of the arguments in Bombay, the Tribunal enquired from the representatives of workmen and the banks whether there was any need for the Tribunal to visit other selected centres for completing the hearing of the general issues. Having regard to the full enquiry that had taken place at Bombay, both parties categorically stated that such a course was unnecessary. The Tribunal also being of the same opinion, it was ultimately decided that the hearing might be closed with the sitting at Bombay and that no tour was necessary in connection with this reference. On the last day of the hearing however the Travancore-Cochin Bankers' Association filed an application that we should visit Travancore-Cochin State. We did not think it necessary to do so.

14. During the pendency of the proceedings several applications were received from both parties. These were either applications under Section 33 of the Industrial Disputes Act, 1947 (XIV of 1947), or complaints under Section 33A of the aforesaid Act or miscellaneous applications of an interlocutory nature in the main hearing. As many as 126 applications under Section 33, 113 complaints under Section 33A and 74 miscellaneous applications were received. The Tribunal heard and passed orders on 43 applications under Section 33 and on 74 miscellaneous applications. They also passed awards on 54 complaints under Section 33A. Mention may be made in this connection of certain important applications in the main reference. Those relating to the manner of representation of employees have already been referred to. At the beginning of the hearing, the workmen presented an application for an interim award, relating mainly to three matters:

- (1) increase of dearness allowance;
- (2) working hours and overtime payment, and
- (3) medical aid.

Considerable time was taken up by the parties in arguing the case for interim relief. After a full enquiry and arguments, the Tribunal passed an interim award dated 21st July 1952 which was published as S.R.O. 1344 in Part 2, Section 3 of the *Gazette of India*, dated 29th July 1952 on pages 1172 to 1177. A supplemental interim award by way of clarification of the above was passed on 8th September 1952 (published as S.R.O. 1732 in Part II, Section 3 of the *Gazette of India*, dated 8th October 1952 on pages 1549 to 1551). Yet another important application on behalf of the workmen related to the demand that during the pendency of the enquiry the banks should be restrained from effecting any transfer, dismissal, discharge, retrenchment, closure of branches, demotion, alteration of service conditions etc. The main argument in support of this demand was that there was a policy of general victimization adopted by the banks. The Tribunal found that this allegation was not made out. It declined to pass any general order against the banks of the kind asked for as it was satisfied that the provisions of Sections 33 and 33A of the Industrial Disputes Act, 1947 were adequate to meet the exigencies. The order is reported in 1952 (2) *Labour Law Journal* page 343.

SECTION II—Legislative provisions for settlement of industrial disputes.

15. Before proceeding further it is desirable to refer briefly to the legislative enactments for settlement of industrial disputes in general and to bank disputes in particular. After the organization of the Trade Union movement and the passing of the Trade Unions Act of 1926, there came into existence a machinery for settlement of trade disputes by courts of enquiry constituted under the Trade Disputes Act (VII of 1929). By 1934, the principle of voluntary arbitration was successfully adopted in Ahmedabad in relation to certain industrial disputes. In 1938, the Bombay Government enacted a comprehensive Act known as the Bombay Industrial Disputes Act (Act XXV of 1938), dealing with the problem in great detail. The principle of compulsory adjudication through Tribunals constituted by the State was adopted, a principle which had been recognized to some extent in Great Britain even in the course of the First World War. When World War II broke out, the Defence of India Act and the rules thereunder placed a ban on strikes and lock-outs which stood in the way of production of essential materials and retarded the war effort. Instead, compulsory adjudication by Tribunals was provided for by rules under the Defence of India Act. In 1947, the

Central Government passed the Industrial Disputes Act (Act XIV of 1947), as the Defence of India Act and the rules framed thereunder had expired. Both the Provincial Governments and the Government of India could avail themselves of the provisions of the Act. There were also special enactments in certain provinces like Bombay and the United Provinces. In Bombay, the Bombay Industrial Relations Act, 1946 (Act XI of 1946), replaced the Bombay Industrial Disputes Act (Act XXV of 1938), and provided a comprehensive labour relations code. In the United Provinces, the United Provinces Industrial Disputes Act, 1947 (Act XXVIII of 1947), was passed. It was in pursuance of these legislative provisions existing from 1938 onwards that various awards including bank awards were passed. In 1949 the Central Government took over exclusive jurisdiction in the matter of settlement of disputes of banking and insurance companies, having branches or establishments in more than one State. An Ordinance was first passed in April 1949 and later on in October the same year another Ordinance was passed. These were subsequently replaced by an amending Act (LIV of 1949). In 1950, the need was felt for constituting a Labour Appellate Tribunal in order to harmonize the principles which had been laid down by various Industrial Tribunals and to secure uniformity in such matters. The Central Government thereupon passed the Industrial Disputes (Appellate Tribunal) Act, 1950 (Act XLVIII of 1950), for the establishment of a Labour Appellate Tribunal. This Act also introduced a number of amendments to the Industrial Disputes Act, 1947. Some of the important changes were the extension of the Industrial Disputes Act, 1947 to the whole of India except the State of Jammu and Kashmir, the provision of an express power to direct payment of costs and the insertion of a new Section (Section 33A), which provides for complaints by aggrieved workmen for violation of the provisions of Section 33 during the pendency of proceedings. Section 33 was also amended. Section 17A was newly added to provide for the time from which awards became enforceable. This Act specifically exempted the award of the All India Industrial Tribunal (Bank Disputes), presided over by Mr. Justice K. C. Sen from the jurisdiction of the Appellate Tribunal. In June 1951, the Industrial Disputes (Amendment and Temporary Provisions), Act, 1951 (Act XL of 1951), was passed. This further amended the Industrial Disputes Act, 1947 and also made certain temporary provisions relating to pay and allowances of certain workmen. The "Sen Award" having been declared void by the Supreme Court and the subsequent attempts at conciliation having failed, the legislature passed this Act temporarily freezing, *inter alia*, the scale of pay and rate of allowances as on 31st March 1951 of certain workmen pending a settlement or an award by a new Tribunal. This Act amended Sections 7 and 8 of Act XIV of 1947 relating to the composition of Tribunals and also Sections 9 and 13 of the said Act. The next important change was the amendment of Section 10 of the Industrial Disputes Act, 1947, by Ordinance IX of 1951 since replaced by Act XVIII of 1952. Two important sub-sections were also added in Section 10, restricting the adjudication by a Tribunal only to the points of dispute specified by the appropriate Government and empowering the Government to include in a reference not only the establishments in which a dispute existed but also other establishments of a similar nature which were likely to be affected by or interested in the dispute.

SECTION III—History of the Dispute.

16. To properly understand the background of the present industrial dispute which has been referred to us for adjudication it is desirable to review briefly the dispute in the banking industry in the recent past and the various awards passed from time to time. It is well known that during World War II there was a sharp rise in the prices of commodities and cost of living went up. People with fixed incomes and particularly those in the middle class had to suffer great hardships. Salaried employees belonging to the middle class, finding that they were not being given sufficient relief, took advantage of the trade union movement which had succeeded to some extent in ameliorating the conditions of service and raising the wage level of industrial workers. About 1946, the employees in the banking industry bestirred themselves. Trade unions of bank employees presented demands for higher salaries and allowances and better conditions of service. In some cases notices of threatened strike were also served on the employers. The unrest became acute in the Provinces of Bombay, the United Provinces and Bengal as they were then known. The concerned local Governments referred these industrial disputes for adjudication. In Bombay, Mr. Justice H. V. Divatia passed a consent award in the dispute between the Bank of India Ltd. and its employees (other than officers) working at the Head Office and branches in the City of Bombay and its suburbs. It was published in the Bombay Government Gazette dated 15th August 1946. Justice Divatia was again called

upon to undertake a comprehensive enquiry in respect of the industrial disputes between thirty specified banking companies operating in Bombay City and their employees. The main award in these disputes was published in the Bombay Government Gazette Extraordinary dated 9th April, 1947. This award is hereafter referred to as the 'Divatia Award'. The benefits of the Divatia Award were later on extended to bank employees in Ahmedabad by means of a separate Award given by Justice Divatia and the same was published in the Bombay Government Gazette dated 22nd April 1948.

17. At about the same time as the enquiry in Bombay which resulted in the Divatia Award, the late Shri B. B. Singh was appointed adjudicator by the Government of United Provinces in respect of the disputes between forty specified banking companies and their workmen in all their establishments throughout that Province. Shri B. B. Singh gave his award on 11th March, 1947. The U.P. Government enforced the same by its order dated 15th March, 1947. The recommendations relating to grades of pay, minimum salary and dearness allowance were brought into force with effect from 1st January, 1947 as laid down by the Adjudicator in the award. This award is hereafter referred to as the 'B. B. Singh, Award'.

18. In Bombay the employees were not quite satisfied with the Divatia Award and in 1948 they gave notice of its termination in accordance with the terms of the Bombay Industrial Relations Act although the banks themselves had voluntarily raised the dearness allowance beyond what the Award gave. In the United Provinces also considerable difficulty was felt in interpreting and implementing the B. B. Singh Award. The award was rather concise and it had assumed certain things without explicit statements about them. This led to different and conflicting interpretation by various banks as well as by the workmen. There was acute dissatisfaction which threatened industrial peace and necessitated once again intervention of the Government machinery. The U.P. Government constituted the U.P. Conciliation Board consisting of Shri Bind Basni Prasad, a Judge of the Allahabad High Court, two representatives on behalf of the banks and two representatives on behalf of the workmen. The reference to the Board was for clarification of the B. B. Singh Award and its revision, wherever it was necessary. The Conciliation Board passed an award, with reference to the interpretation portion. Though on many points there was unanimity, on certain vital issues the Members did not agree. The Chairman presented the award to the Government and the Government passed an order on 18th April, 1949 making the award effective and operative with respect to major portions of it. Before the Board could take up the question of revision of the terms of B. B. Singh Award, the Central Government had, at the instance of the banks, assumed exclusive jurisdiction in relation to settlement of industrial disputes relating to 'banking companies', meaning thereby banking companies with establishments in more than one State. The Conciliation Board could not therefore proceed with that reference any further.

19. In Bengal there were several adjudications in relation to industrial disputes between certain banks and their workmen. The more important of them were the following: A dispute between the Imperial Bank of India and its workmen in Bengal was adjudicated upon by Shri R. Gupta whose award was published in the Calcutta Gazette dated 4th August 1947. This is hereafter referred to as the 'Gupta Award'. The Bank, of its own accord, extended the applicability of this award to all its workmen beyond Bengal and practically to the whole of their establishments except those governed by the Divatia Award of Bombay. There were, however, certain modifications with respect to Madras Circle. Several other banks in Calcutta, particularly the leading Exchange Banks, also voluntarily adopted the Gupta Award as applicable to them. Shri R. Gupta clarified his main award in certain respects and the clarification was published in the Calcutta Government Gazette Extraordinary dated 6th September 1947. A further reference was made to Shri S. C. Chakravarty as the parties to the dispute fell out over the implementation of the Gupta Award. The award of Shri S. C. Chakravarty was that within the terms of the reference there was no legally valid dispute and there was nothing to adjudicate upon. This was published in the Calcutta Government Gazette dated 22nd December 1948. Shri S. C. Chakravarty was also the adjudicator in the dispute between the Imperial Bank of India, Bengal Circle and its employees in respect of certain issues other than those decided by Shri R. Gupta. This award was published in the Calcutta Government Gazette dated 22nd December 1948. The industrial dispute between the Central Bank of India Ltd. and its employees in Calcutta was adjudicated upon by Shri S. K. Sen. He was also the adjudicator in the dispute between the Central Bank of India Ltd. and its employees in West Bengal outside Calcutta. These awards were published in the Calcutta Government Gazette dated 23rd December 1947 and 10th March

1948 respectively. Shri S. K. Sen generally followed the Divatia Award, the main addition being the grant of house rent allowance for workmen in Calcutta. Besides these, there were some minor awards by certain Bengal adjudicators in the dispute relating to the Hooghly Bank, Allahabad Bank and the Hindustan Commercial Bank.

20. Notwithstanding all these awards, the general unrest amongst bank employees still continued. The banks also preferred to have control by the Central Government over the banking industry, at any rate, as regards banks which had establishments in more than one Province. The Central Government, being also of the same opinion, passed the Industrial Disputes (Banking and Insurance Companies) Ordinance (Ordinance No. VI of 1949), on 30th April, 1949. It applied to all Provinces of India and came into force at once. Banking companies having branches or other establishments in more than one Province thus came under the jurisdiction of the Central Government for the purposes of the Industrial Disputes Act, 1947 (XIV of 1947) and the powers of the local Government over them were taken away by that Ordinance. On 13th June, 1949, the Central Government in the Ministry of Labour constituted an industrial tribunal consisting of three retired Judges of High Courts to adjudicate upon the industrial dispute between several banking companies and their workmen. On the same day, they referred the industrial dispute to that Tribunal by a separate order. That Tribunal was presided over by Shri K. C. Sen, President of the Industrial Court, Bombay and a retired Judge of the Bombay High Court. For the first time an All-India Industrial Tribunal was constituted and the various disputes relating to the banking industry were referred to it. That Tribunal is hereafter referred to as the 'Sen Tribunal'. Their award which was given after an exhaustive enquiry was published in the Gazette of India of 12th August, 1950. That award has been referred to as the 'Sen Award'. Some of the leading banks being dissatisfied with the award applied to the Supreme Court and obtained special leave to appeal against the said award as it had been specially exempted from the jurisdiction of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950). The Supreme Court granted interim stay, pending the hearing of the appeal, on three important matters, viz. the provisions of the Award with reference to (1) its applicability to certain persons who were stated to be officers and not workmen, (2) directions regarding bonus, and (3) directions regarding provident fund. On 9th April 1951, the Supreme Court, by a majority judgment, declared the Sen Award as void altogether for the reason that the constitution of the Tribunal offended against the provisions of the Industrial Disputes Act, 1947. The Court held that the award was void *in toto* for want of jurisdiction and did not go into the merits of the award with respect to any of the matters dealt with therein. In consequence of this decision, the dispute in the banking industry remained unresolved. Soon after there were some strikes consequent on certain actions taken by some of the banks. The result was Government had to take steps afresh to settle this long standing dispute which, for one reason or other, had not received a final and satisfactory determination. Attempts at settlement of the dispute, thus revived through the machinery of conciliation having failed, the Central Government was obliged to pass a temporary Act (Act XL of 1951) freezing certain provisions of the Sen Award for the time being. It referred the dispute again for adjudication to a new Tribunal. The attempts of bank employees, Unions and Federations to have the Sen Award legalized by legislation did not succeed. In July 1951 an Industrial Tribunal was again formed with Mr. Justice H. V. Divatia, a retired Judge of the Bombay High Court as Chairman and two other Members. Banking Companies in Part 'B' States were not included in the reference to this Tribunal. The Chairman and Members of this Tribunal resigned soon afterwards and the adjudication work could not be taken up. Meanwhile there was a growing and persistent demand on the part of bank workmen that banking companies in Part 'B' States (excepting the State of Jammu and Kashmir) should also be included in the adjudication. The Central Government agreed with this view. Rules for qualification of membership of the Tribunal were also made and published. Thereafter on 5th January 1952 the present Tribunal was constituted and the Central Government referred to it for adjudication the disputes between various banks including banks in Part 'B' States and their workmen as per the terms of the Notification of 5th January 1952, S.R.O. 36.

CHAPTER II

Jurisdictional points

21. Certain questions regarding our jurisdiction were raised before us. They were, however, of a minor character. No major questions of importance objecting to our jurisdiction in general or attacking the validity of the reference to us were

raised although the Sen Tribunal had to deal with such questions. This is apparently because such objections were carefully considered and overruled by that Tribunal in their award and also because there have been legislative changes since then which have now made it impossible for similar objections to be raised. Reference may be made to the amendments to Section 10 of the Industrial Disputes Act, 1947 by Ordinance No. IX of 1951 dated 5th December, 1951 and later on replaced by Act No. XVIII of 1952. Section 10 as amended reads as follows:—

“(1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing—

- (a) refer the dispute to a Board for promoting a settlement thereof; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or
- (c) refer the dispute or any matter appearing to be connected with, or relevant to the dispute, to a Tribunal for adjudication:

Provided that where the dispute relates to a public utility service and a notice under Section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

- (2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court or Tribunal, the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.
- (3) Where an industrial dispute has been referred to a Board or Tribunal under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.
- (4) Where in an order referring an industrial dispute to a Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Tribunal shall confine its adjudication to those points and matters incidental thereto.
- (5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a Tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, by order in writing include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments”.

In view of these amendments to the main section no objection to the validity of the reference was raised. However, one of the scheduled banks listed in the Government Notification of the 5th of January, 1952 sent a communication to us that its name should be deleted from the reference as there were no disputes between itself and any of its employees and also because the Central Government could not have been of the opinion that that particular bank was likely to be interested in or affected by the bank disputes which were referred to the Tribunal for adjudication. The Bank was informed that the question of its deletion from the reference should be raised either before the Central Government or before any superior Court if it was so advised and that it was open to it, however, to appear before us and to show cause why they should be exempted from our award. The Bank in question, however, took no further part in the proceedings before us but instead instituted legal proceedings in the appropriate High Court. As the matter is still pending we refrain from making any observations with respect to that question.

22. Three banks, viz. the Bank of Rajasthan Ltd., the Mercantile Bank of Hyderabad Ltd. and the Salem Bank Ltd. filed regular applications before us to have their names deleted from the reference. The grounds urged were—

- (1) that they were comparatively small banks with meagre resources working in places where the cost of living was not high, and
- (2) that their branches outside the State where their registered offices are situated are not very far from the borders of the State.

Reliance was placed on the explanation to clause (iii) in sub-section (3) of section 11 of the Banking Companies Act (Act No. X of 1949) and the deletion of the banks from the reference was sought to be justified on the analogy of the principle underlying that explanation. We rejected those applications as the banks concerned were 'banking companies' within the definition of the Industrial Disputes Act having branches in more than one State and as the statutory fiction relied on was neither directly applicable nor capable of being extended by analogy to such cases.

23. Mr. D. T. Lawrie appearing for the Mercantile Bank of India Ltd. raised a contention that there were no demands by its employees from its branches at Bombay and Delhi although there were demands from its employees at the Calcutta and Madras offices. He contended that the Tribunal had no jurisdiction to give an award with regard to the Bombay and Delhi employees of the Bank. We have no hesitation in rejecting this contention. We agree with the cogent reasons advanced by the Sen Tribunal in paragraph 33 of their award.* As observed by them, it is not possible to regard each branch or office of a bank as a separate entity. They observe, "We do not, therefore, think that it would be proper or legitimate to treat the employees of a particular branch of a bank who may not have raised a dispute as separate from those who have done so. Employees in certain branches may not have come forward because their co-workers elsewhere are fighting their battle. If such employees were to be placed on a footing different from those who have actually raised the dispute, the main object of industrial arbitration in cases of collective dispute, namely, collective settlement, would be frustrated. If industrial disputes are to be confined only to such workmen as are vocal or as are members of a union which raises a dispute, the inevitable result would be that the employees who are silent today would start making demands tomorrow and the reverse of industrial peace would be achieved".

24. Mr. Lawrie raised another contention in relation to the Comptoir National D'Escompte de Paris. He said there were no demands from any of its employees or unions of employees. In the case of the Netherlands Trading Society, he said, there were demands only from the Calcutta employees' union and not from employees at other places. As regards the Eastern Bank also Mr. Lawrie stated that demands were put forward only by the All India Bank Employees' Association which is a Federation and not a registered union. On behalf of the Allahabad Bank it was contended by Mr. Lawrie that the demands were forwarded only by the All India Bank Employees' Association aforesaid, the U.P. Bank Employees' Union and the Ahmedabad Bank Employees' Union and that inasmuch as the Bank had not recognized any of these in the past, they were put to proof that they represented the employees whom they claimed to represent and further that they were entitled to represent those employees in the proceedings before us. We are satisfied that none of these objections should be allowed to prevail. It has been authoritatively laid down by a judgment of the Labour Appellate Tribunal that a Federation can raise a dispute on behalf of the employees.† As regards the Netherlands Trading Society, the union of Calcutta employees is a registered union and is stated to be affiliated to the All India Bank Employees' Association. Even as regards the Comptoir National D'Escompte de Paris, the fact that no demands have been put forward does not oust our jurisdiction. That Bank was a party to the reference made to the Sen Tribunal and was not exempted from their award. When the Sen Award was declared void by the judgment of the Supreme Court, the disputes between the employees and the banks revived and remained to be solved afresh. The Central Government therefore had ample materials to come to the conclusion that there were existing industrial disputes between the workmen and the banks who were parties to the dispute and to whom the award would have applied had it been legal. It could not, therefore, be assumed as Mr. Lawrie wanted us to do that this particular Bank was included in the reference to us only by virtue of Section 10, sub-section (5) of the Industrial Disputes Act, 1947. The fact that

*Published in the Gazette of India dated 12th August, 1950 and printed in book form by the Manager of Publications, Government of India, New Delhi.

†1952 (1) Labour Law Journal, page 615—The Sugar Mills, Uttar Pradesh versus Their Workmen.

the employees have not sent any demands does not necessarily lead to the inference that they have no disputes. It may very well be either that there are no disputes existing or that such employees are content to have an award by the Tribunal which may be passed as a result of other bank employees in the industry fighting a common battle on behalf of all workmen. Either inference is equally legitimate. In these circumstances it is not possible to accept Mr. Lawrie's contention that there is no jurisdiction in the Tribunal to pass an award against the Comptoir National D'Escompte de Paris. Mr. Lawrie contended alternatively that the Bank should be treated not as a party to the dispute but only as a party to the reference under Section 10, sub-section (5) of the Industrial Disputes Act, 1947. According to him the award under Section 18 of the Act aforesaid will be binding on all the banks who are parties to the industrial dispute and not on banks who are included in the reference under sub-section (5) of Section 10. It is not necessary to deal with this contention at this stage. If the award is not binding as contended, such banks are free to adopt their own course of action but they will be acting at their risk. We are not now at this stage called upon to exempt them from the award. Mr. Lawrie's final argument was that even if there should be jurisdiction the Tribunal should consider the propriety of passing an award against them. We have not been shown any good reasons why this Bank should be exempted from the terms of our general award. There is no positive statement of its employees before us that they have at present no disputes and that they do not want an award by this Tribunal. All that we have is their silence which cannot be taken as equivalent to a statement that there are no demands or disputes to be settled. For the reasons which we have stated above, we do not see any reason to agree with Mr. Lawrie's suggestion that they should be specifically exempted from the scope of our award. Having regard to the fact that this is an inquiry on an All India basis with reference to banking industry in which all the major banks are involved, there is no valid reason for exempting this Bank from our award.

25. The position may, however, be different if any particular bank and all its employees come before us and state that they have no disputes either because they are satisfied with existing conditions or because they have themselves compromised the disputes and come to a settlement between themselves. In such cases it may very well be that this Tribunal should not make its award applicable barring those exceptional cases where, on grounds of public policy and imperative considerations of uniformity, some of its provisions should be made applicable even to that particular unit of the industry.

26. Three banks, the Hindu Bank Karur Ltd., the Bharatha Lakshmi Bank Ltd., and the National Savings Bank Ltd. applied to us that they should be exempted from our award because by reason of closure of their branches they have ceased to have branches or other establishments in more than one State and that at present they are not to be regarded as banking companies as defined under the Act. At the time of the reference to us these banks were banking companies as defined in the Act and were therefore properly included in the schedule to the Notification of the Government of India. It is difficult to see how the jurisdiction which the Tribunal had obtained by this reference could subsequently be lost by the unilateral action of the banks in closing down some of their branches during the pendency of the proceedings before us. The workmen in the other branches of the banks could not be prejudiced by such an act on their part. We therefore rejected their applications.

27. Lastly, it was urged on behalf of the banks before us that certain categories of employees were not workmen within the meaning of the Act, while on behalf of one Association styled the "All India Bank Officers' Association" it was claimed that all employees, whether doing clerical or manual work or not, come within the definition of the term 'workmen'. As regards the banks' contentions we propose to deal with them under Item No. 10—"Categories of workmen to whom the award of the Tribunal is applicable", but we have no hesitation in rejecting the contention of the All India Bank Officers' Association. The expression 'workmen' as defined in the Act is limited to persons employed in any industry to do skilled or unskilled, manual or clerical work for hire or reward. The words 'manual or clerical' cannot be treated as surplusage. The contention raised by the Association in the copy of the memorandum to us was, however, not pressed when they appeared in person to represent their case before us.

28. Some of the demands received from unions raised issues not falling under any of the 34 specified items of dispute set out in Schedule II of the reference to this Tribunal. The recent amendment to Section 10 of the Industrial Disputes Act, 1947 introducing sub-section (4), confines our jurisdiction only to the specific points of dispute set out in the reference and matters incidental thereto.

We are not at liberty to deal with other points. The list is exhaustive and cannot be added to. We have, therefore, not taken up any of these issues for adjudication. Indeed, no reference was made to these special demands during the hearing before us, apparently because it was realized that Section 10, sub-section (4) stood in the way. We wish to make it clear, however, that we have not enquired into the merits of these demands and we accordingly make no award as regards such demands.

29. Certain subsidiary points of jurisdiction were raised when some specific items of the dispute were under discussion. As they are not matters common to all the items of dispute, we will consider them separately when we deal with those specific items.

30. Finally we may point out that no objection to the inclusion of banking companies in Part 'B' States was taken before us. We may refer to the legislative provisions justifying such an inclusion. The Indian Companies Act, 1913 (Act VII of 1913) was applied to Part 'B' States by the "Part 'B' States Laws Act of 1951" which came into force on 1st April, 1951. Of course, banking companies in the State of Jammu and Kashmir cannot be included under the Act and have not been included in the reference to us.

CHAPTER III

Parties to the dispute etc.

SECTION I—Banks.

31. Banking activities, though they come under the expression "industry" as defined in the Industrial Disputes Act, 1947, do not result in the production of material goods or manufactured articles. Business of banking is in truth only a public service. It provides funds for trade and industry and plays a vital role in the economic and financial condition of the country. Its special importance on that account must always be kept in view. In India banking service is rendered by several agencies. There have always been indigenous bankers, either individuals, families or firms who, from very early times have been rendering such service to the agriculturists and merchants. In more recent times, organized banking has taken up the same role to a large extent. Commercial banking by joint stock companies governed by the Indian Companies Act and co-operative banking governed by the Co-operative Societies Act are the two main categories of such activity. With the growth of banking habit the cheque system has been replacing currency to an increasing extent as a medium of exchange, particularly in the important cities and centres of commerce. Banking facilities for rural areas are, however, still meagre and inadequate. It is common knowledge that the Government are anxious to see that greater banking facilities and credits are made available to rural areas. It is considered desirable that there shall be a substantial amount by way of capital and reserves. Banks generally obtain a very large proportion of their working capital from depositors rather than from shareholders, and generally speaking, there is no fixed ratio of paid-up capital and reserves to deposits, though a ratio of 10 per cent. under Indian conditions is regarded as a satisfactory one. The profits of banking are made up of interest, commission, discount, service charges, interest on loans and advances and yield from investments after deducting therefrom the interest payable by the bank on deposits and borrowings. Successful banking, therefore, involves a large amount of skill and judgment in making wise advances and investments and constant and vigilant supervision and watch over such matters. Further, commercial banking is a competitive business in which a number of joint stock banks are engaged. Some are old and well-established and others are now in the process of establishing themselves on a sound basis. There are also great varieties in the capital structure of banks. Some operate in wide areas and have a large number of branches; others, confine themselves to well-defined local areas and act on a less ambitious scale. In the banking industry, there is not room for spectacular and high profits as in certain manufacturing concerns and industries. At the same time banking activities conducted on sound banking lines and with normal efficient management will produce a safe and modest return by way of profits.

32. Banks are delicate institutions of credit. The continued confidence of the public in the soundness of a particular banking concern is a vital factor for its successful existence and therefore those in charge of the management have to be consistently vigilant and watchful. Even unfounded rumours may shake the confidence of the public and create a crisis for a bank, although there may be no justification at all for a panicky view. Further, a failure of a bank or even a continued run for some days on a bank has a psychological tendency to affect depositors of other banks as well and sound banks have to take special precautions

during such times. There may even suddenly arise a banking crisis on a large scale if there is in quick succession, a number of bank failures. A high degree of liquidity of assets and large accumulated reserves are prime factors which create and sustain confidence of the public. Any large scale industrial fluctuations or financial crisis which impede the smooth working of banks will appreciably affect the general trade and commerce of the country. We have to keep in mind all these special features of the banking industry.

33. A short survey of the pattern of banking will also be useful. The Reserve Bank of India Act provides for classification of banks into scheduled banks and non-scheduled banks. The more important banks are naturally in the scheduled list because of the greater facilities which they can thereby obtain from the Reserve Bank of India. The recent banking legislation (Act X of 1949) has given the Reserve Bank of India a large amount of control over the working of the banking system of the country and this ensures its development on sound lines. As a result of such control for over three years now the structure of banking has become strengthened. The Statistical Tables relating to Banks in India for the year 1951 issued by the Reserve Bank of India shows that there were 993 banks in 1951 of which 21 were foreign banks (16 scheduled and 5 non-scheduled) and the remaining 972 Indian. Out of these 76 are scheduled banks, 431 non-scheduled banks and 415 co-operative banks. The Reserve Bank of India report on "Trend and Progress of Banking in India" for 1951 states "the reserves of Indian scheduled banks are now well over three-fourths of their paid-up capital as against two-thirds two years ago". The ratio of reserves and paid-up capital in the case of scheduled banks has gone up from 74 per cent. in 1950 to 78 per cent. and in the case of non-scheduled banks from 33 to 38 per cent. and for all banking companies from 68 to 72 per cent. The ratio of paid-up capital and reserves to deposits for Indian Banking companies which is 10 per cent. compares favourably with that obtaining in the U.K. (2 per cent.) or the U.S.A. (8 per cent.).

SECTION II—Labour.

34. During the last three decades and ever since the formation of the International Labour Organization at the end of the World War No. 1 'Labour' has been coming into its own. The upward progress has been steady and in recent times at a fairly rapid pace. It has now become an accepted maxim that "labour is not a commodity that can be bought and sold". Enlightened conscience will no longer permit sweated labour. The growth of labour legislation is therefore no longer a matter for surprise. Simultaneously trade unionism has also been making rapid progress in India. Our country cannot remain isolated from world forces. The dignity of human labour and its rights demand full recognition. The Summary of the First Five Year Plan at page 116 states: ".....The basic needs of the worker for food, clothing and shelter must be satisfied. He should also enjoy improved health services, wider provision of social security, better educational opportunities and increased recreational and cultural facilities. The conditions of work should be such as to safeguard his health and protect him against occupational and other hazards. He should be treated with consideration by the management and he should have access to impartial machinery if he fails to get a fair deal. Finally he should have freedom to organize and adopt lawful means to promote his rights and interests". What applies to industrial labour must be taken as equally applicable to the labour force recruited from the middle class as well. They legitimately claim a higher standard of living. We are primarily concerned in this dispute with bank clerks who are largely drawn from middle class families and with subordinate staff belonging to the upper strata of the working class. Heavy manual labour is not what is required but mental qualities and qualifications are necessary for the proper discharge of their duties. Nor should it be forgotten that a clerical career is not an end in itself. It is only a beginning which, with efficiency and diligence, should take the employee to officers' grades as well and open out a responsible and lucrative career in later years of service.

35. The most important question which affects labour is the one relating to their wages and salaries. The Summary of the First Five Year Plan at page 120 observes as follows: "Concerning the wage policy which should guide wage boards or tribunals, the principle should be to reduce disparities of income. The worker must have his due share in the national income; and the standardization of wages should be accelerated and extended. The differences in wages between various jobs should be ironed out as far as possible, except when they are justified by differences in skill, training and experience, mental and physical requirements, attendant hazards, etc. Furthermore, a scientific assessment should be attempted of the relative work-load in different occupations and industries." Further on it is stated on page 122: ".....Rationalization in industries where labour is

surplus to requirements should be carried out subject to certain safeguards in the interests of workers. The main safeguards necessary are: musters should be standardized and work-loads should be fixed on a scientific basis; surplus workers should be found employment in other departments; gratuity should be offered as an inducement to retire voluntarily; the workers should be offered facilities for retraining for other occupations..... The gains of rationalization should be shared between workers and employers". At the same time the problem of unemployment has also got to be tackled. India is an under-developed country with a very large population. There is unemployment arising out of shortage of land, capital equipment and other complementary resources. There is also shortage of goods and services. The resources of man-power are however great. One of the directive principles recognized by our Constitution is the duty to provide for full employment and to raise the standard of living. In the solution of the problem before us these considerations relating to the rights and privileges of labour must always be kept in view.

SECTION III—Others affected.

36. Over and above the two parties before us *viz.* the banks and the employees, we have to remember that there are others who are vitally interested in the proper solution of the disputes and who will be largely affected by the results of the adjudication. We refer to the public and to the State. Although not formal parties to the dispute it cannot be gainsaid that the result of the adjudication would have tangible effects not merely on the parties themselves but on the wider public, inclusive of the State in relation to its economic, commercial and administrative aspects of the country's government. We quote again from the Summary of the First Five Year Plan: "Economic progress, in other words, is bound up with industrial peace. The employer-employee relationship is essentially a partnership to promote the community's economic needs.In recent years prices have risen rapidly. Industrial profits have also increased considerably and organized labour has obtained substantial increases in wages. To check inflation, however, profits and wages will need to be controlled to some extent during the period of the Plan.An increase in wages at this juncture may injure the country's economic stability by raising the costs of production. The volume of employment may also be affected adversely. Wage increase should therefore be avoided except to remove anomalies or where the existing rates are abnormally low or if increased productivity can be obtained from renewal or modernization of plant, or to restore the pre-war real wage". If industrial peace is essential for economic prosperity and if profits and wages have to be controlled to some extent at least during the period of the Plan we must be careful to see the repercussion of the wage structure which we devise as applicable to the banking industry on other industries and administrative bodies in the country so that there may be no violent inequalities to cause industrial unrest among other sectors of industry as well as in the administrative employments.

37. The several considerations set out above in relation to the three main parties mentioned have to be harmonized by us in deciding the various heads of dispute referred to us for adjudication.

CHAPTER IV

Item No. 9: Classification.

SECTION I-A—Classification of Banks.

38. The first question on which the parties were heard was, "Should banks be classified into different categories for the purposes of this adjudication and, if so, on what lines?". This is item 9 in schedule II of the reference to us.

39. To begin with we shall consider the question of classification of banks primarily with reference to the workmen's scales of pay and allowances. Other matters like conditions of service, retirement benefits and leave which may be related to classification as well, will be specifically discussed in the award under those items.

40. In the reference made by the Central Government, banks are classified into two primary groups *viz.* (i) scheduled banks and (ii) non-scheduled banks.

Scheduled banks consist of four groups:—

Group A: (i) Banks having deposits of over Rs. 50 crores.

(ii) Exchange Banks.

Group B: Banks having deposits between Rs: 15 and Rs. 50 crores.

Group C: Banks having deposits of less than Rs. 15 crores, including seven banks working under schemes of arrangements.

Group D: Banks which have suspended payments or are granted moratorium or are prohibited from accepting fresh deposits.

Non-scheduled banks consist of two groups:—

(i) Banks having deposits of less than Rs. 15 crores and working normally.

(ii) Banks working under schemes of arrangement etc.

41. The list of scheduled banks contains 12 Exchange Banks and 5 Indian Banks under Group A, 6 Indian Banks under Group B, 44 under Group C, and one under Group D, totalling in all 68. The list of non-scheduled banks contains 38 banks working normally, and 23 banks working under schemes of arrangements etc. totalling 61 banks. In all, there are 129 banks included in this reference.

42. Leaving aside for the moment the banks which are not working normally we have in all 87 scheduled banks and 38 non-scheduled banks. The classification of banks into scheduled and non-scheduled appears to be of no particular significance in reference to the problems before us, although for various other purposes, like control exercised by the Reserve Bank of India and facilities afforded by that Bank that distinction is of importance.

43. On this issue of classification of banks, there has been a variety of opinions expressed both in the demands of workmen and in the replies of banks. We have on the whole received 188 sets of demands both from the unions and the elected representatives, out of which 90 are totally opposed to classification. 28 unions or elected representatives offer no comments on this issue. The remaining 70 unions or elected representatives are in favour of classification, out of which 57 specify the categories into which banks are to be classified. The following table would show the groups into which they fall:—

Basis of classification	No. of unions or elected representatives suggesting the same
(a) Capacity, size and amount of business.	... 23
(b) Deposits viz. those with deposits of over Rs. 40 crores and those with deposits of less than Rs. 40 crores.	... 7
(c) Grouping as done by the Sen Tribunal.	... 7
(d) Working capital.	... 9
(e) Paid-up or authorised capital and turnover.	... 5
(f) Deposits or earning capacity.	... 2
(g) Scheduled and non-scheduled banks.	... 2
(h) As in S.R.O. 36.	... 1
(i) Commercial, exchange, co-operative and mortgage.	... 1
TOTAL	... 57

Out of the remaining 13, 11 unions or elected representatives of the Exchange Banks employees merely suggest that Exchange Banks should be classified into one group and placed in a special category so that they may get higher scales of pay and allowances than in other banks. This still leaves out 2 unions or elected representatives, who, while favouring classification, do not offer any definite scheme suggesting the basis for the same. As regards classification of branches of banks, the unions in general have not made any specific demands, though some state that there should be no distinction between head offices and branch offices wherever situated.

44. We have on the whole received replies from 56 banks. Except 12 which do not offer any comments on this issue, the remaining 44 banks are in favour of classification. Even here, 6 banks do not suggest any definite basis for the same. 4 Exchange Banks who have sent replies suggest that for purposes of bonus, provident fund, gratuity and pension they must be put in a special category from

other Indian Banks mainly because they are global institutions following a global policy. The Imperial Bank of India favours regionwise classification only. The Punjab National Bank appears to be against any grouping of banks, through Mr. B. N. Singh appearing for the Bank submitted to us in the course of his arguments that he had no objection to classification regionwise. This leaves us with 32 banks which fall into the following groups:—

Basis of classification	No. of banks suggesting the same
(a) Deposits	...
(b) Working funds	...
(c) As in S.R.O. 36	...
(d) Working funds deposits and earning capacity	...
(e) Average profits	...
(f) Various suggestions	...
	—
TOTAL	...
	32

45. As regards classification of branches of individual banks, most banks have not offered any suggestions. Some of them however referred to the existing practice in their institutions of classifying branches according to the importance of the place, cost of living, volume of work, earning capacity, population and other factors, and they desire that banks should be given the sole discretion to classify the branches. No bank however has suggested any definite principle or set of principles which are capable of precise application for the purposes of classifying the branches.

46. During the arguments before us the stand taken on behalf of the workmen was somewhat different from their demands. It was contended that no classification of any kind should be made. The main arguments were as follows: (1) This, being an All-India Tribunal constituted to deal with important banks in India, standardization of pay was necessary. (2) The principle of "equal pay for equal work" laid down by the Constitution of India [vide sub-clause (d) to Art. 30] negatives the argument in favour of classification. (3) The price of labour should be the same in all the banks because it is to be correlated primarily to the needs of the workmen; and particularly where a minimum subsistence level of wage is to be ascertained and fixed, any classification which would operate to lower the scale of emoluments below the minimum subsistence level should not be recognized. (4) Different rates of pay for the same kind of work in different banks would adversely affect the solidarity of the employees and the progressive development of healthy trade union organization and activities. (5) Even at present, several banks have the same scale of pay for employees in head offices and branches as well. Any difference due to cost of living being higher or lower should be adjusted by grant of suitable allowances varying with the rise or fall of the cost of living index figures. (6) The Reserve Bank of India has a uniform scale throughout its branches.

47. On behalf of the banks it was generally contended as follows: Banks vary widely in their resources, earning capacity, profits and capacity to pay. It is neither possible nor desirable to adopt the resources of the banking industry as a whole, as the basis on which scales of pay should be fixed. This industry differs, for example, from cotton textiles where standardization of processes as well as wages is possible. The pay scales must be such as the different units of the industry can bear. Any attempt at a uniform standard of scales of pay in the banking industry as a whole, is likely to result in bigger banks paying less than what they actually pay or should pay, and smaller banks being compelled to pay more than what they are able to pay or should legitimately pay. Moreover, the type and tempo of work are different according as it is at the head office or branch office, pay office or sub-pay office where the workmen are employed, and also according to the industrial and commercial importance of the several places where the offices are situated. Cost of living also varies in different parts of the country and it is not correct to hold that as a result of rationing and controls, cost of living has become more or less uniform throughout the country. All the previous bank awards have recognized classification as legitimate, necessary and proper. The awards of various industrial tribunals in respect

of commercial concerns have recognized differences in the cost of living in different places and have provided for different scales of pay even in the same unit or industry. Further, the practice in the major banks before awards of tribunals were enforced was to have different scales of pay for different employees of the same banks in different regional areas.

48. On these grounds the banks pleaded that there should be a classification of banks mainly on the basis of the working funds and earning capacity. As pointed out already they claimed freedom to further classify their branches according to their discretion, taking into account regional differences.

49. Those workmen who opposed classification made it clear during arguments that their opposition was due to the apprehension that what they considered a minimum subsistence level of wages might not be awarded. They had no objection to classification according to size, resources and earning capacity, if for the lowest category of banks, minimum subsistence wages were fixed and higher wages were fixed for units of industry having larger resources. Regionwise classification providing for different scales of pay for the same kind of work was however objected to, though even here the arguments made it clear that the basic pay being uniform, any differences in the cost of living of the different areas were to be adjusted by the grant of compensatory allowances or by different scales of dearness allowance varying with the cost of living indices.

50. The major banks while conceding the necessity for special treatment for small banks desired to have only a few classes, preferably three or four, and not more. Finally they suggested that the classification might be as follows: (i) banks (including Imperial Bank of India and Exchange Banks) with working funds of more than Rs. 30 crores, (ii) banks with working funds between Rs. 10 crores and Rs. 30 crores, and (iii) banks with working funds below Rs. 10 crores. Alternatively they suggested the classification adopted by the Sen Tribunal. But they preferred their own classification to the one in the Sen Award. On behalf of the smaller banks it was urged with force that there should be a special class for banks having deposits of one crore and below.

51. We have carefully considered the various demands, the reply statement of the banks and the arguments advanced before us on this issue and we are of the opinion that a classification of banks according to their resources is necessary and legitimately called for and that "working funds", that is, aggregate resources made up of paid-up capital, reserves and deposits will be a fair criterion for estimating a bank's earning power and its capacity to meet the workmen's legitimate demands.

52. Shri B. B. Singh in his award classified the forty banks which were parties to the dispute before him in the United Provinces into three classes according to their paid-up capital, dividend, margin of profit etc. He fixed different scales of pay with respect to each of these classes. That award however does not give any reasons in support of the classification. In the Bombay Award of 9th April 1947 Divatia J. discussed the matter very fully in paragraphs 7 to 9 of his award. He classified the thirty banks before him into two groups: (1) big banks with working funds of about Rs. 15 crores and above, and (2) small banks with working funds of less than Rs. 15 crores. He shows how the business of banking is of a different type from those kinds of industry which produce and manufacture articles by mechanical processes and also how standardization of wages is not generally feasible in the business of banking, although the clerical staff does the same kind of work, because of the difference in the contribution of mental exertion which they make to the profit-making capacity of the units in which they are employed. He refers to the statutory restrictions imposed upon the banking companies by the various special provisions under the Indian Companies Act as well as to the control exercised by the Reserve Bank of India over the scheduled banks. He comes to the conclusion that all the banks should not be treated as of equal capacity for purposes of meeting the demands made by the employees. In paragraph 8 of his award he states as follows: "It would appear from all these legislative measures and restrictions which are imposed in the interests of the public that new and small banks have to be very cautious in their expenditure and to endeavour to build up sufficient reserves and establish a reputation for credit and good management. Unless that is done they cannot survive against competition from big banks which have built large reserves, accumulated enormous working funds and given good interest and dividends. These big banks can afford to incur larger expenditure than the small banks without impairing their credit or stability. The new banks in their initial stages derive their income from small operations and seek expansion by opening branches to attract working funds. These new and small banks supply a much needed service to the public. For all these reasons the business of banking stands on a different footing from other industries in which no distinction can be made between the various units of the industry for the purpose of wages." We respectfully agree with these observations.

53. The Sen Tribunal also decided in favour of classification of banks according to the working funds available to them (*see* para. 47 of Sen Award). Their classification based on the average of the working funds between 30th June and 31st December 1949 is as follows:—

Group A.—Imperial Bank of India and all Exchange Banks included in the reference and all other banks having average working funds of Rs. 25 crores and above.

Group B.—Banks having average working funds below Rs. 25 crores and not below Rs. 7½ crores.

Group C.—Banks having average working funds of less than Rs. 7½ crores.

54. The financial condition of the institution, the size of its aggregate resources and its capacity to bear the burden of the demands are important considerations in fixing the salaries and allowances for the employees. Banking business cannot be said to have become a standardized business or industry. It cannot be placed on a par with a manufacturing organization. In India banking service is still not adequate to the needs of the country and its population. Particularly rural banking requires to be considerably developed. The profit-making capacity of banks varies largely with their size, stability and standing. Banking is a highly competitive business. Very much depends upon the personal factor, the name and reputation built up by the institution. Banks, being credit institutions, have to thrive on the confidence of the public. Special steps have to be taken to build up sufficient reserves. Section 17 of the Banking Companies Act now requires that 20 per cent. of the nett annual profits should be added to the reserve until it becomes equal to the paid-up capital. This, of course, is only the minimum. Actually in practice larger reserves are necessary to create confidence in the customers and also to meet unexpected contingencies like sudden depreciation in securities, the scare of war, the onset of a depression or changes in Government policy. The bigger banks can command greater facilities from the Reserve Bank of India and the money market. The smaller banks have to maintain a position of greater liquidity and easier convertibility. They also have to pay higher interest on their borrowings and offer greater inducements to the depositors. For these reasons a classification of banks according to working funds which reflect their earning capacity, is necessary.

55. We have considered the various suggestions put forward before us in relation to classification. We think the following classification should be adopted:—

- (A) Bank whose working funds amount to Rs. 25 crores and more.
- (B) Banks whose working funds amount to Rs. 7½ crores and more but are below Rs. 25 crores.
- (C) Banks whose working funds amount Rs. 1 crore and more but are below Rs. 7½ crores.
- (D) Banks whose working funds are below Rs. 1 crore.

We have in general adopted the classification as in the Sen Award, but we have added one more group consisting of banks below the Rs. 1 crore limit. We think the case of small banks requires special consideration. It is true that this manner of division is to some extent arbitrary, but care has been taken to avoid marginal or border line cases.

56. Ex. B-47 is a statement filed on behalf of the banks which sets out the figures of the paid-up capital, reserves and deposits of the banks as on 31st December 1950 and 31st December 1951, rounded up to lakhs of rupees. This is prepared from the "Statistical Tables relating to Banks in India" published by the Reserve Bank of India. It will be noticed that the classification of banks under these groups would be the same whether the figures for working funds are taken as on 31st December 1951 or as the average of working funds based on the figures for 31st December 1950 and 31st December 1951. The Imperial Bank of India and the Exchange Banks before us conceded that they can be classified in the same group with the biggest Indian Banks i.e. the A group.

57. A group will therefore contain *inter alia* the following eight banks viz. The Imperial Bank of India, Central Bank of India, Bank of India, Punjab National Bank, Bank of Baroda, United Bank of India, United Commercial Bank, and the Allahabad Bank, besides the Exchange Banks included in the reference. Habib Bank Ltd. will be classified according to its total working funds i.e. not for the Indian Union alone but on its total figures in this country and elsewhere. It will accordingly be included in the A group as its working funds were Rs. 36 crores

and Rs. 45 crores as on 31st December 1950 and 1951 respectively. For reasons mentioned below the United Bank of India will however be placed in Group A till the end of 1954.

58. B group will comprise, The Indian Bank, Hyderabad State Bank, Bank of Mysore, Bank of Bikaner, Indian Overseas Bank, Devkaran Nanjee Banking Company and the Canara Bank. The United Bank of India will be in this group till the end of 1954 as a special case.

59. As there are quite a large number of banks which will fall under groups C and D, we do not propose to enumerate them. All banks in our reference will however be classified in accordance with our directions given above.

60. On behalf of the Punjab National Bank Ltd., Mr. B. N. Singh pleaded that it should be placed in B group banks. He pointed out that the Bank had to incur huge losses owing to the partition, and that even after five years its ratio of profits compared with the ratio in other banks was low. The dividends declared also compared unfavourably with these by major Indian Banks. He drew our attention to the several legislative provisions in favour of displaced persons which make it difficult for the Bank to collect advances from them. Nevertheless, we are not satisfied that a case for exclusion of this Bank from A group is made out. Its paid-up capital as on 31st December 1951 is 87½ lakhs and its reserves are equal to the same. Its deposits as on 31st December 1950 stood at Rs. 44 crores and as on 31st December 1951 at very nearly Rs. 52 crores. In 1951 it entered into an agreement with Bharat Bank Ltd. and took over a large portion of its assets and liabilities and also several of its branches. It is undoubtedly one of the big banks with a considerable number of branches and large working funds. We feel it will not be right to take it out of A group which is its proper place.

61. Mr. Tanubhai Desai on behalf of the United Commercial Bank claimed that it should be placed in the B group. It was pointed out that this Bank was only started in 1943 though it had grown to be one of the big banks since then. Its paid-up capital was increased from Rs. 1 crore to Rs. 2 crores, and its reserves as at the end of December 1951 were shown as Rs. 67½ lakhs. For some time more it will have to set apart 20 per cent. of its profits annually towards the building up of its statutory reserve. Its deposits however as on 31st December 1950 were over Rs. 33 crores and Rs. 29½ crores in December 1951. In the last few years it has been paying only 3½ and 4 per cent. by way of dividends free of income-tax which is certainly lower than the dividends paid by the leading banks. It is however significant that the Bank has embarked upon foreign exchange business which is a substantial profit-earning activity as the figures of income shown in the profit and loss account for the years 1950 and 1951 disclose. It has also branches in foreign countries, and has recently started branches in the Far East. While it is true that in the earlier years it did not declare a dividend it may be noted that in 1947 it issued new shares at par while the market value of the shares stood at a premium of 50 per cent. Its shareholders have had the benefit that way. It is somewhat curious that this Bank should now plead before us that it should be classified as belonging to the B group instead of A group, while in the February number of its house journal for 1949 (Vol. I, No. 1) known as "The United Commercial Bank Review" its General Manager claims that this Bank "has shown an extraordinary degree of vitality, skill and growth, so much so that within five years of its birth it has come to be rated amongst the First Five Banks of the country". It is not altogether without significance that the salary and allowances of its General Manager are fixed at a high figure which throws some light on the importance and the resources of the Bank and its claim to be considered as one of the Big Five. This Bank has not found it necessary to avail itself of the concession authorised by the Government of India to show the value of its investments at the average market value during the six months from July to December 1951 instead of the market value ruling on the last day of December 1951, the date of the balance sheet, and its investments are shown in its balance sheet for 1951 at below market value at the end of December 1951 notwithstanding the heavy fall in the price of fixed interest-bearing securities due to the rise of the Bank rate and other causes. We are satisfied that this Bank, notwithstanding its "young age" is rightly classified as one of the major leading banks and its proper place is in A group.

62. On behalf of the Bank of Bikaner Mr. Singh pleaded that it should be put in C group. The main reasons urged were that the Bank was functioning in a part of the country where the cost of living was low and it was mainly serving an area which was not very much industrialized. Further, the Bank was established only about 9 years ago. 34 out of its 50 branches are in Rajasthan. We

- do not think that we can agree to this suggestion of removing this Bank from B group and placing it in C group. The ratio of its present expenditure to gross income is smaller than the corresponding ratio of other comparable banks. It has distinct possibilities of expansion of business before it, particularly as Rajasthan will be becoming more and more important in the present set up. Further, the amalgamation of some of the big banks in Rajasthan including this Bank would appear to be under contemplation. Even apart from these, we think no such exceptional circumstances of a compelling nature have been established to justify a deviation from the general rule which we have adopted.

63. In another connection it was also argued that a Rs. 10 crore limit of deposits might be drawn as the line of classification for B banks. Stress was placed upon the circumstance that the Reserve Bank of India has fixed such a limit for granting to banks re-discounting facilities in regard to bills. We are not accepting this, as in our opinion, the limit tentatively fixed in connection with a particular scheme of the Reserve Bank of India is not yet the final word on that subject. We have chosen a different limit *viz.* Rs. 7½ crores of working funds as a line of demarcation. Applying this test the Canara Bank Ltd., Devkaran Nanjee Banking Company Ltd. and the Indian Overseas Bank Ltd. must all be placed in the B group notwithstanding certain general observations made on their behalf by Mr. Tanubhai Desai.

64. We have next to provide a rule for classification in future when the working funds might rise beyond or go below the limits laid down by us. The Sen Tribunal at para. 48 of their award observe as follows: "We would recommend that if in future it should so happen that the working fund of a particular bank has been below the lower limit or has been higher than the upper limit set for its class continuously for a period of two years it should then be deemed to have passed into the next lower or the next higher class, as the case may be, provided that the directions made in this award are still being followed by the bank at that date, and provided further that such change will not adversely affect the existing employees". We direct a similar provision as above with the qualification that the relevant date for calculating the working funds will be 31st December of each year. The change over from one group to another should not adversely affect the total emoluments of the existing employees drawn by them on the date of the said change over. Total emoluments mean basic pay, dearness allowance, house rent allowance and such other allowances which are given by our award in recognition of higher types of work.

65. For the purpose of applying the formula for classification in future the expression "working funds" will mean paid-up capital, reserves and the average of the deposits for the 52 weeks of each year for which weekly returns of deposits are submitted to the Reserve Bank of India under the provisions of the Reserve Bank of India Act. The banks which are parties to this dispute are directed to publish and exhibit a statement showing such average of the weekly returns of deposits in the first month of the next succeeding calendar year together with a certificate from its auditors to the correctness of the statement or a certificate from the Reserve Bank of India to this effect. We have referred to the average of the deposits throughout the year as we think that this is better than merely adopting the figure as it is shown on a particular day *viz.* 31st December of each year.

66. The question of classifying branches of banks was raised as a part of the classification issue. A bank with all its branches should be considered as one entire organization or entity. We do not think that there should normally be any difference in the emoluments paid to its employees whether they work at head office or in any of the branches subject however to the condition that the employees in head offices, branches or establishments situated in areas classified by us according to differences in cost of living, will get only the amounts according to the scale fixed for such areas.

67. Another question of importance arises with reference to banks which amalgamate and form a new institution. The resultant bank may not be bound by our award unless the amalgamation is brought about by an existing bank (which is a party to this adjudication) taking employees of the other amalgamating banks on its staff. The procedure for amalgamation of banks has been considerably simplified by the recent amendment to the Banking Companies Act of 1949 effected by Act XX of 1950. The Reserve Bank of India in its annual report on the "Trend and Progress of Banking in India" for the period ended the 31st December 1949 (at page 26) observes as follows: "Amalgamations conducted on right lines would not only assist in rapidly improving and consolidating the Indian banking system, but would also considerably minimise a good deal of avoidable hardship

to the depositors. At the present stage of the development of Indian banking, when the banking system includes some uneconomic units, amalgamations conducted on proper lines have obvious advantages, such as the economies resulting from large scale organization, spreading of risks, weeding out of unhealthy competition in banking business and improvement in the standard of bank management". The present legislative provision is contained in Section 44A of the Banking Companies Act 1949 (No. X of 1949). Generally the process of amalgamation will be through one of the banking companies, which will be the transferee company, taking over the assets and liabilities of the other banking company whose business under the scheme of amalgamation is to be acquired by the transferee company (see sub-section 6 of Section 44A of the Banking Companies Act 1949). If as a result of amalgamation the resultant bank is found to belong to a class higher than any of the amalgamating banks, the result of our award, in the absence of any qualification would be to increase its wage bill and establishment expenses. It is desirable therefore to provide for certain concessions in such cases so that the process of amalgamation may be encouraged and not retarded. Agreeing with the opinion of the Sen Tribunal in this respect we direct that in case any such bank is bound by our award the resultant bank should for a period of three years from the date of amalgamation be deemed to belong to the highest class to which any of the amalgamating banks belonged before the amalgamation, and that thereafter, when it becomes necessary to apply the scales of pay appropriate to the group to which the bank belongs as per our classification the procedure laid down by us regarding adjustment should be followed.

68. In the reference before us there is only one bank which has been formed as a result of amalgamation. This is the United Bank of India Ltd. which came into existence as an amalgamated bank on 1st December 1950. Four scheduled banks in Bengal viz. Bengal Central Bank Ltd., Comilla Union Bank Ltd., Comilla Banking Corporation Ltd. and the Hooghly Bank Ltd. amalgamated. The Bengal Central Bank which under the scheme was named as the transferee company first had its name changed to the United Bank of India Ltd. On sanction of the scheme by the Reserve Bank of India under Section 44A of the Banking Companies Act 1949, the United Bank of India took over the entire assets and liabilities of the other three banking companies which were named as transferor companies. Its paid-up capital, reserves and deposits as on 31st December 1950 and 1951 are shown below:—

	On 31st December 1950.	On 31st December 1951
Paid-up capital	Rs. 2,64,82,000	Rs. 2,68,77,000
Reserves	Rs. 1,01,72,000	Rs. 1,02,00,000
Deposits	Rs. 26,89,62,000	Rs. 29,29,35,000

Mr. Chaudhri appearing for the Bank pleaded that special concessions must be shown in this case. He alleged that the amalgamation in this case was one of necessity due to the banking crisis in Bengal. The amalgamated banks had to keep in service a large staff very much in excess of its real needs. The conditions in West Bengal and East Bengal and Assam where this Bank had large operations were not yet settled, and due to several difficulties, political and economic, the earning capacity of this Bank for some years to come would not be like that of other banks with similar resources. On this ground he urged that the Bank be exempt at least for a period of five years. On behalf of the workmen a written reply was filed and thereafter a memorandum was filed on behalf of the Bank also. The workmen filed a further reply to this. Certain tabular statements have been filed by Mr. Chaudhri earlier which, he claimed, should be treated as confidential under Section 21 of the Industrial Disputes Act. We have examined all these materials carefully, and we are of opinion that this Bank should be placed in B group until the 31st December 1954. We hold that there is no case for either exempting the Bank from this award or placing it in a lower group as contended for by Mr. Chaudhri. At the same time we think some concession must be shown to this Bank and it cannot straightaway be classified in A group according to its present position of working funds. In case of amalgamations we have provided that for a period of three years the amalgamated bank should be put in the highest group to which any of the amalgamating banks belonged before amalgamation. In the present instance three out of the four units which amalgamated would belong to B group under this test. We think that acting on the formula laid down before, this Bank should be placed in the B group, and although we have only provided three years in the normal case of

amalgamation, in the special circumstances of this case we have decided to allow it to continue in B group for another year from its date of amalgamation. We therefore fix 31st December 1954 as the limit of time for its continuance in B group under the present classification, and thereafter it must take its place in the appropriate group under the formula we have already laid down.

SECTION I-B—*Imperial Bank of India and Exchange Banks.*

69. The Counsel for the employees of the Imperial Bank of India and for the Exchange Banks urged that these institutions should be treated in a class by themselves and placed above the major Indian scheduled banks. Since working funds are going to be the test for classification these banks with their enormous resources and paying capacity commensurate with the resources can well afford to meet the demands of the workmen. Mr. N. V. Phadke stressed that the Imperial Bank of India is the biggest banking company in the country having vast assets and resources and having also the largest number of branches throughout the country. As Agent of the Reserve Bank of India and as Agent of the Government of India it wields considerable power and commands working funds beyond the reach of the scheduled banks in general. Its deposits amounting to Rs. 231 crores are equal to nearly one-third of total deposits of the scheduled banks. Mr. Lawrie, the Counsel for the Imperial Bank of India resisted the claim of the workmen. Imperial Bank of India, he said, is one of the scheduled banks and though it has enormous resources it has enormous responsibilities such as the opening of branches in unproductive areas and it has also to work under certain restrictions imposed by law. It is becoming a national institution serving the needs of Indian industry and commerce. The process of complete Indianization of its staff is well in hand and in sight. Nothing should be done which will inflate the working expenses of the Bank and reduce or impair its capacity to extend banking facilities. We are not convinced that the Imperial Bank of India should be placed in a special category. We are no doubt impressed with its size, resources and influence but we are equally impressed with the responsibilities it carries and the very useful role it plays in the money market of India and in the spread of banking in those parts which do not ordinarily attract the scheduled banks. Its expense ratio which is midway between the most economically and the best economically run Indian Banks is higher than that of the Bank of India or the Bank of Baroda, and stands at about the same level as the Central Bank of India while its net profit rate over a period of years is more or less on a par with the major scheduled banks.* Its special position as an intermediate central banker, as agent of the Government and of the Reserve Bank of India casts certain duties upon it which hamper its earning capacity. We are unable to accede to the demand of the workmen for a special or separate class for the Imperial Bank of India.

70. The Counsel for the workmen of the Exchange Banks, Mr. Phadke and Mr. Chari urged that in the event of classification, the Exchange Banks along with the Imperial Bank of India should be put in a separate class higher than that in which the major Indian Banks are to be placed. Professor K. T. Shah in a note on the capacity of the Exchange Banks to meet the employees' demands sought to establish that these banks are financially so situated and engaged in such sound and profitable business and so far at least as India is concerned enjoy such practical monopoly in financing the foreign trade of the country that they form a most prosperous community, able to discharge all their obligations towards the workmen. One-fifth in number of the Indian scheduled banks, they hold one-third of the total deposits of all banks. They are foreign in character and are truly speaking, branch agencies of banks having their head offices in London, on the Continent and in the Far East or in the United States. They are able through their connections with monetary centres abroad and through a system of rediscounting to obtain a quick turnover of their funds and limit the employment of their resources to a comparatively small figure in relation to the business they actually put through. The deposits they raise in India thus earn a higher return than the deposits raised by their Indian counterparts who, in view of the practical monopoly wielded by the foreign institutions are denied free access to these productive channels of trade financing. In 1951 the percentage of net profit to earnings of the Exchange Banks was 42.6 as against 23.3 for the Indian Banks. These profits are drained away from the country without meeting the legitimate demands of the workmen. The highly paid superior staff is almost entirely foreign and the workmen have to be content with subordinate positions on low salaries.

* Muranjan, *Modern Banking in India*, page 476.

71. Mr. Palkhivala furnished a memorandum on behalf of the Exchange Banks in reply to Professor K. T. Shah's contentions. In his arguments before us he tried to prove that the Exchange Banks were on the whole no better or no worse than the major Indian Banks. Exchange banking cannot be separated from normal banking and the so-called practical monopoly has ceased to have much force as it is open to any bank to engage in the financing of India's external trade and as a matter of fact Indian Banks have already made some progress in this direction. He invoked the principle of industry-cum-region basis which had received the sanction of the Labour Appellate Tribunal. There should be no distinction or discrimination as between the units of the same industry in the same region. Moreover, in the case of the Exchange Banks for the purpose of determining the prosperity and capacity to pay we should consider only the Indian business of these global institutions, that is, the volume and profits in India after allowing for legitimate charges referable to that business. It is worth noting that several of these Exchange Banks are definitely smaller than some of the major Indian Banks. In fact, the Exchange Banks should be compared with the Indian counterparts of similar magnitude and not as Professor Shah has done, with the Indian Banks generally. Thus treated we find that the average net profit of eight major Indian Banks is more than twice the average net profit of the foreign banks and this despite the fact that banks in our country make large deductions and appropriations before arriving at the net profits while Exchange Banks make no such provision in computing their Indian profits. The average deposits of the major Indian Banks were four and a half times the average deposits of the foreign banks. The total deposits of the Central Bank of India alone are about three times larger than the total deposits of 11 Exchange Banks put together. The Reserve Bank of India takes the size of total deposits as the test of the resources of banks. Applying the test of total deposits and supporting it by the test of gross income or net profit the seven major banks are far ahead of the Exchange Banks. The test of working funds alone cannot be applied, because capital and reserves of these institutions are employed throughout the world and no portion of them can be specifically allocated to India. While Professor Shah dwelt at length on the advantages and superior position of the Exchange Banks, Mr. Palkhivala elaborated the risks run by Exchange Banks, the taxation to which they are subjected in different countries the services they have rendered in the past under difficult conditions and are rendering at present in the development of the external trade of the country.

72. On a comparative assessment of the arguments on both sides and a critical study of the statistics adduced by them we have come to the conclusion that the foreign banks should be treated on the same footing as Indian Banks. We do not propose to put them in a class higher than or apart from the major Indian Banks. We accept their suggestion that all of them may be put in class A along with the major Indian Banks. The Banking Companies Act 1949 applies to the Exchange Banks and no statutory distinction appears to be made between foreign and national banks. We have however to take note of one important matter that the Counsel for the workmen placed before us. The Exchange Banks, though they carry on business in India and make the bulk of their profits out of their Indian trade do not recruit their officers, as a rule, from the nationals of India and thus offer no higher prospects and promotions to workmen. We admit that in general the scales of pay and allowances are much better in the foreign banks than in Indian Banks but we believe that a change in the employment policy is called for in consonance with the movement towards Indianization of the personnel of firms wherever possible and desirable. The Exchange Banks who are resisting the demand for a separate category should, we feel, accord the same treatment to their workmen as is given by the Indian Banks. Careers should be open to talented workmen to pass into the higher grades of bank administration. A scale of pay for workmen who have opportunities of moving up to the officer class is not the same thing as an identical scale with little or no chances of promotion to supervision and direction cadres. We therefore recommend that the Exchange Banks should revise their methods of recruitment with a view to making it possible for Indians to become officers, heads of departments and managers in so far as they show their competence for these jobs. It is not without significance that in the neighbouring country of Ceylon, all foreign banks are allowed to have non-nationals for the first three places only in the officers' grade.

SECTION II—Classification of areas.

73. The head offices and branches of the banks are situated in different parts in India. In devising a wage scale it is necessary to take notice of this circumstance. The cost of living varies in different areas of this sub-continent. It would not be right to have the same scale of emoluments for the employees in all these places. No doubt, it is possible to have a uniform basic pay supplemented by

local allowances for different localities on a graded scale according to the cost of living. According to the Census of India, Paper No. 1, 1952, giving the final population totals of 1951 census, there are in the various States of India 75 towns the population of which exceeds one lakh, and among these there are three big cities whose population goes beyond 12 lakhs viz. Calcutta, Bombay and Madras. It is not easy to prepare a graded scale of local allowances for each of these places on the basis of conditions peculiar to each of them. Rather, the attempt must be to have a smaller number of classified areas corresponding roughly to what may be described as (1) specially costly cities, (2) urban areas, (3) semi-urban and rural areas. This three-fold classification will provide the largest scope for uniformity and at the same time will take note of the pronounced differences in the cost of living between one place and another. Some of the leading banks have adopted a system of classifying their branches and other establishments, not according to the States in which they are situated, but on the basis of their industrial and commercial importance, population, cost of living, volume of business, earning capacity etc. During the arguments before us no definite principles were indicated by the banks, nor was there any unanimity at first as to the tests that should be adopted for evolving such principles. No attempt was made to define any tests with precision. When these difficulties were pointed out, the banks as a whole wanted time to consider the matter and to come forward with a definite and concrete suggestion. Their attention was drawn to the principle of classification adopted by the Sen Tribunal in paragraphs 53, 54 and 55 of their award. The banks finally stated before us that the only principle of a sufficiently precise character which would be easily and readily applicable to the classification of areas was the one based on population.

74. The learned Counsel for the workmen opposed the classification of areas just as they opposed the classification of banks. They took their stand on the general ground of solidarity of bank employees and on the principle of "equal work, equal pay". Mr. N. V. Phadke appearing for most of the Imperial Bank of India and Exchange Bank unions in addition put forth his view that differences in the cost of living that used to exist before the war between the various places were now practically evened out due to rationing, controls and even spread of inflation, and hence there was no justification for prescribing different scales of pay and allowances for different areas. We admit that there has been a tendency towards equalization of living conditions but material differences created by geographical, transport, price and other factors still persist and render an areawise classification a necessity. The wide range of variation in the wages fixed even in the same State for several categories of workers in different regions under the Minimum Wages Act prove that we are as yet far from a uniform price level for the whole country. Similarly, the Working Class Cost of Living Index Number (published by the Labour Bureau of the Ministry of Labour, Government of India) for fifteen towns in different parts of the country, constructed on more or less uniform principles with the Base 1944=100, shows a considerable disparity ranging in the year 1951 from 124 at Tinsukia to 197 at Dehri-on-Sone (*vide* Indian Labour Gazette, Vol. X, December 1952, pages 525 and 526).

75. The Sen Tribunal adopted a classification based on population on the following lines:—

Class I areas comprise the cities of Calcutta including Howrah, Barrackpore, Behala, Alipore, Cossipore, Garden Reach, Baranagore, Tollygunge, the South Suburban Municipal Area and Dum Dum—; Bombay including Greater Bombay, Delhi (New and Old), and Ahmedabad. All towns and cities (other than those included in Class I areas) shown in the census report of 1941 as possessing population of 50,000 or more in the Punjab and 1,00,000 or more elsewhere come under Class II. All other places not included in Class I and II areas fall under Class III.

76. No particular reasons were set out for the distinction made between places in the Punjab and those in other States. Even the parties before us were not able to indicate to us why this distinction was made. Presumably the aftermath of the partition of the country in 1947 created peculiar conditions in East Punjab resulting in a very large increase in the population of its cities over the figures given in the census of 1941. Now that we have accurate figures of the population as in 1951 there appears to be no reason for treating the places in the East Punjab differently from those in other States. Moreover, none of the parties before us pleaded for any special treatment for the Punjab State. We have therefore decided to adopt the population test as applicable to all the places in whatever State they may be.

77. The next question is whether we should uphold the one lakh figure as the dividing line between Class II and Class III areas. Although here again no particular reasons have been advanced by the Sen Tribunal, we have this fact that the parties before us did not urge any special grounds for changing this figure;

nor did they indicate any anomalies of any striking character which necessitate the adoption of a different figure. Having given our best consideration to this subject we think that it is right to adopt the figure of one lakh as the Sen Tribunal did. The merits of this classification can be judged by the tables set out below wherein we have given some particulars of the general distribution of bank offices and the number of their employees in different areas.

78. We directed all the banks which are parties to this adjudication to submit statements to us of their various offices in different States and of the number of workmen in each of their offices, belonging to the clerical and the subordinate staffs. Of the 129 banks which are included in the reference, 93 banks sent the necessary particulars. All the scheduled banks except one which was working under a scheme of arrangement supplied the required figures. Most of the non-scheduled banks also submitted their returns. The tabulation of the data filed by all these 93 banks which may be taken to be a fair representation of the general condition, is set out below:—

Statement showing the distribution of places, banking offices and workmen among the different population groups

Population range	No. of places	No. of banking offices	No. of workmen
12 lakhs and above:	...	...	...
(I) Calcutta (including Howrah)	...	113	9,302
(II) Bombay including Greater Bombay	...	139	8,716
(III) Madras	...	55	2,225
Between 11 and 12 lakhs:	...	...	...
Delhi (including New Delhi)	...	81	2,914
Below 11 lakhs:			
10 to 11 lakhs	1	24	802
5 to 10 lakhs	3	95	2,243
2 to 5 lakhs	22	259	5,869
1 to 2 lakhs	44	312	5,438
50,000 to 1,00,000	87	309	4,416
25,000 to 50,000	169	377	4,470
10,000 to 25,000	327	489	3,616
Less than 10,000	196	226	1,194
Unclassified	41	42	308
TOTAL	894	2,521	51,513

Population of the first ten cities are given below as per 1951 census figures.

1. Calcutta (including Howrah)	...	29,82,307
2. Bombay (including Greater Bombay)	...	28,39,270
3. Madras	...	14,16,056
4. Delhi (including New Delhi)	...	11,91,104
5. Hyderabad (including Secunderabad)	...	10,85,722
6. Ahmedabad	...	7,88,333
7. Bangalore	...	7,78,977
8. Kanpur	...	7,05,383
9. Lucknow	...	4,96,861
10. Poona	...	4,80,982

79. The classification adopted by the Sen Tribunal as regards Class I area was based on the specially expensive character of the cities of Calcutta, Bombay and Delhi as borne out by the statistics furnished by the Office of the Economic Adviser to the Central Government in the "Report of an Enquiry into the Family Budgets of Middle Class Employees of the Central Government", commonly known as 'The Subramanian Report'. The census figures for the year 1951 were of course not before the Sen Tribunal. We have, however, the benefit of the figures of the latest census. We are impressed with the sudden and enormous accession to population, particularly in our major cities causing pressure on accommodation and raising living costs. We think that cities with a population of 12 lakhs and above should be in a class by themselves. Bombay, Calcutta and Madras have each a population much over 12 lakhs. We also propose to make an exception in favour of Delhi, which otherwise cannot get into Class I area with its population of a little less than 12 lakhs. The two important reasons for including Delhi in Class I area are—(i) the population of Delhi is very nearly 12 lakhs and there is no other city which like Delhi is almost in the region of 12 lakhs and (ii) Delhi as the capital of our Republic has got a special importance which is growing every day. We therefore place all those four centres in Class I area. Bombay will include Greater Bombay; Calcutta will include Howrah, Barrackpore, Behala, Alipore, Cossipur, Garden Reach, Baranagore, Tollygunge, South Suburban Municipal Area and Dum Dum and Delhi will include New and Old Delhi and Delhi Shahdara. The Sen classification, it may be noted, leaves out Madras but includes Ahmedabad. There has been a great rise in the population figures of Madras City from 7,77,481 to 14,16,056 in the decennial period. The test of population which we have adopted as the basis of classification justifies the inclusion of Madras. As regards Ahmedabad, the same test if applied would exclude it from Class I area. The reason given by the Sen Award for its inclusion is that Divatia J. applied his Bombay Award to seven banks in Ahmedabad. We find that six banks out of these agreed to extend the Bombay Award to their Ahmedabad branches. The seventh viz. the Imperial Bank of India merely contended that the Gupta Award should govern their Ahmedabad employees instead of the Bombay Award of Divatia J. There is no discussion at all in the award applied to Ahmedabad about the relative cost of living in these two places. Further, in several notifications issued by the Government of Bombay under the Minimum Wages Act (XI of 1948) fixing the minimum rates of wages payable to different classes of employees in various industries in the State of Bombay, like (i) oil mills, (ii) tanneries and leather manufacture, (iii) public motor transport, (iv) stone breaking and stone crushing, (v) rice mill, flour mill and dal mill, (vi) tobacco manufacture, Ahmedabad is placed in Zone II whereas Bombay constitutes Zone I, and lower wages are fixed for Ahmedabad. (Vide Notification dated 27th December 1951 of Labour and Housing Department Nos. 146/48 I to XIV). These notifications were made after considering the reports of advisory committees on which labour and capital were represented. We are told that these recommendations which were made on an investigation of family budgets of workmen in different taluks and districts were unanimous. Nevertheless we cannot but give great weight to the circumstance that experienced adjudicators with intimate knowledge of living conditions in Ahmedabad like Justice Divatia and Justice Sen have had no hesitation in placing it in the same group as Bombay City. Nor is it easy to believe that the major important banks would have agreed to do so if it were not really deserving of such a place. In the proceedings before us the banks did not ask that Ahmedabad be shifted from Class I to Class II area and seemed to have acquiesced in a *status quo* for that City. There are about 650 bank employees in Ahmedabad. We place it, as the Sen Tribunal did, in Class I as a special case.

80. Our classification is accordingly as follows:—

Class I area will comprise the Cities of (i) Calcutta as defined above, (ii) Bombay including Greater Bombay, (iii) Madras, (iv) Delhi (Old and New and Delhi Shahdara) and (v) Ahmedabad.

Class II area will comprise of all towns and cities other than those included in Class I area, which according to the census report of 1951, possess a population of one lakh and more.

Class III area will comprise all places not already included in Class I and Class II.

According to this classification the 51,513 workmen as shown in the returns submitted by 93 banks as stated above will be found distributed as follows:—

Class I area	...	...	23,808	...	46 per cent.
Class II area	...	...	13,701	...	27 per cent.
Class III area	...	...	14,004	...	27 per cent.

The statement gives a fair indication of the percentage and proportion of the total number of workmen of the banks included in our reference distributed over the three areas.

CHAPTER V

Scales of pay etc. (General considerations).

SECTION I—Wage Structure

81. Item No. 1:

Item 1 reads thus:—

“Scales of pay, including:—

- (a) whether the remuneration of workmen and their periodical increment should be correlated to their efficiency and attendance, and
- (b) whether, if basic scales are recommended, such scales of pay of particular categories should be uniform all over India and whether the difference in the cost of living of the various centres should be adjusted by the grant of compensatory allowances.”

82. Amongst the 33 items that have been referred to us, the most important item and the one to which the greatest attention has been paid by the parties is this. It is only natural that it should be so as most of the other items would have to be decided in relation to the wage structure that we propose.

83. A time scale of wages with annual increments is now recognized to be the normal pattern of a wage scale. It is no longer necessary to give elaborate reasons in justification of this system. The growing needs of the workman's family, the greater experience and improved efficiency of the workman that comes with length of service in the industry and the desirability of a provision for a saving wage, if possible, after a fairly long period of service are recognized to be good reasons for having a time scale with increments. Besides, there is a valuable psychological effect on the mind of the employee when he is assured that for normal increments he is no longer dependent on the whims of his superior officers, which perhaps would be the case if there were no regular scale.

84. Two questions of importance, however, remain to be dealt with:—(1) Should increments be automatic, and in what manner should they be related to the efficiency of the workmen? and (2) Should there be efficiency bars in the incremental scale and, if so, how many and at what periods?

85. Workmen should normally have the benefit of the annual increments as a matter of course, provided there is not a substantially good reason to deprive them of the same either because of their misconduct or gross inefficiency. The wage scale has to be so devised that it provides for the growing needs of the workman and his family. Stoppage of increment, therefore, is more or less by way of punishment. The giving of increments should not be regarded as a matter of bounty at the sweet will and pleasure of the management. At the same time the management should have the right to see that workmen keep up the normal standard of efficiency and not lapse into indifference and inefficiency because of the assured prospect of an incremental scale. We, therefore, direct that increments should normally be given and stoppage of increments by managements should be only by way of punishment for proved misconduct or gross inefficiency. As a working rule, if in the previous year there are three adverse remarks in the service register of the workman entered against him as a result of the management's enquiry into his conduct and after consideration of any explanation given by him, it may be taken as a *prima facie* case for stopping the increment at the next stage and for the next year. If an employee's increment is to be withheld it should only be done after a proper chargesheet has been framed against him and he has been given adequate opportunity to defend himself. The order in writing withholding the increment should also mention whether it will have the effect of postponing future increments.

86. There is another important aspect which requires to be considered. Apart from the withholding of increment in the case of any particular workman the need for a general withholding of increments of one and all during any particular year may arise in exceptional circumstances. Profits may dwindle to such an extent and the prospects of good business may diminish so substantially as to make it desirable for the banks to stop the annual increment as a whole and for all its employees as a temporary measure of retrenchment of working expenses. Such a contingency has also to be visualized and provided for. One of the objections of the banks to an automatic incremental scale as such is based on this consideration. We think there is force in this contention and some reasonable provision for

exceptional cases like the one mentioned above may have to be made. We are of opinion that the following direction should give sufficient protection to the workmen while providing for the needed safeguards for the banks. Annual increments for any particular year may be stopped at the discretion of the bank if the ratio of its gross profits to the working funds during the previous year is less than 75 per cent. of the average of similar ratios for the four years immediately preceding that previous year provided however—

- (1) no discrimination is made amongst the employees of the bank in the matter of withholding the annual increment and that withholding of the increment applies to the entire staff of the bank consisting of all its officers and the clerical staff (subordinate staff being excluded).
- (2) there shall not be any withholding of increments more than once, in any consecutive period of four years.

87. The question of efficiency bar stands on a slightly different footing from the one relating to increments. Most of the awards before us provide for an efficiency bar. All the bank awards, in particular, contain an efficiency bar at some stage or other. The Divatia Award, the Gupta Award and the B. B. Singh Award provided for efficiency bars at different stages. The matter is discussed fully by the Sen Tribunal in paragraphs 110 to 112 of their award. The Sen Award itself provided for one efficiency bar between the 17th and 18th year of service. The workmen contended that except in cases where there is a "higher duty" to be performed there is no justification for imposing an efficiency bar, where after having worked for a number of years without any doubts about his efficiency a workman is merely to continue to do the same kind of work as before. In this country efficiency bars exist in Government service and they are also found in almost all the awards of Industrial Courts and Tribunals. The Central Pay Commission Report discusses this question of "efficiency bar" in paragraph 60. It is stated there that the principle of efficiency bar is that on reaching a certain point in the salary scale an employee should be certified as competent to carry out the higher duties of the grade before further salary advances are granted. It is no doubt difficult to apply this principle where there are no higher duties as such which devolve on the workman after crossing the efficiency bar. Nevertheless, we think it is safer to fall into line with the trend of the awards and the general practice, notwithstanding a certain amount of hesitancy on our part. We agree however with the Sen Award that it is sufficient to have one efficiency bar in the employee's career. Our award regarding wage structure accordingly will provide for it at what we consider to be an appropriate stage.

88. In view of the complaints before us that the working of an efficiency bar is liable to be abused and has, in the past, resulted in some cases of victimization, it is desirable to state our views as to the scope of the efficiency bar which we are providing in our wage scale. In this connection, the following observations in paragraph 18 of the Divatia Award will be found to be appropriate:

"The employer has a right to expect a fairly good level of efficiency for the increments which are to be given in the grade itself and for promotion from the lower to the higher grade. At the same time, the test of efficiency should not be pitched too high for a clerk who is generally a matriculate and the same degree of efficiency should not be required for annual increments in the grade itself as for the promotion from the one grade to another.....Stopping of an increment is in the nature of a punishment while promotion to the higher grade depends on general capacity and the record of service for a certain number of years as an efficient clerk. It is not a very positive test of extraordinary ability, industry or capacity to organize. That would be a test for promotion to officers' cadre from clerical grades but the efficiency required for promotion from lower to the higher clerical grade is only that much efficiency which is necessary for doing the daily routine of clerical work".

We respectfully agree with these views. If an efficiency bar is applied on the above principles there is no reason to apprehend that honest and diligent employees will suffer any hardship. Cases of deliberate victimization can, of course, be remedied in other ways.

89. It is but just that we should add that Mr. Chari who appeared for the workmen expressly stated that he was not levelling any charge against the banks

that they try to save money by unnecessarily preventing the workmen from crossing the bar. Apart from this, it is not without significance that in the very many cases that were put forward as cases of victimization, there were practically no instances of stoppage of increments by improper use of efficiency bars. This is an additional circumstance which weighed in our final conclusion to retain one efficiency bar during the course of an employee's service.

90. We further direct that an efficiency bar once imposed should be reviewed every year and reasons for its continuance if so decided should be communicated in writing to the employee concerned.

SECTION II—Number of Grades

91. Another question which arises is whether we should have more than one scale for the clerical staff. We are dealing now with the ordinary clerical staff doing routine work as such and not the more important positions of the clerical branch which carry with it greater responsibilities in the discharge of their duties. The existing practice has not been uniform. The Imperial Bank of India had, at one time, as many as four grades of clerks with different scales of pay. The Gupta Award reduced them to two, one scale for junior clerks and another for senior clerks. B. B. Singh's Award provided for three different scales for—(1) graduate clerks; (2) under-graduate (meaning thereby non-graduate) clerks and (3) head clerks, supervisors and departmental-in-charges. Before Justice Divatia in the bank disputes enquiry of 1947, the banks in Bombay agreed to have only one scale and his award provided accordingly. Before us two scales of pay, one for junior clerks and another for senior clerks were initially put forward on behalf of the banks. The workmen demanded only one scale. A scrutiny of the proposed scales of emoluments and a comparison of the same with reference to the pre-Sen position and the position under the Sen Award revealed various anomalies. In the light of the discussion the bigger banks finally put forward one consolidated scale for the entire clerical staff as such. It may, therefore, be taken to have been, more or less a matter of agreement that the award should now provide only for one scale for all clerks. A further objection to more than one scale was raised by the workmen. It was urged that it would lead to undesirable favouritism and also unfair discrimination in promoting workmen from one grade to another. The banks also objected to have a fixed proportion for the distribution of staff between the two grades. In the circumstances it is as well that we adopt the agreement of parties to have only one scale. This, however, does not mean that posts which carry special responsibilities should not be provided for by extra allowances which are really a secondary wage in addition to the basic wage and form part of an appropriate wage structure.

SECTION III—Uniform Basic Scales

92. Item 1, clause (b) of the reference to us is:

"Whether, if basic scales are recommended, such scales of pay of particular categories should be uniform all over India and whether the difference in the cost of living of the various centres should be adjusted by the grant of compensatory allowances".

93. We have elsewhere provided for classification of banks according to their paying capacity and resources and according to geographical areas. So far as the first classification goes, we intend to provide for different scales of pay applicable to the employees of each group of banks so classified. To this extent therefore there cannot be a uniform basic scale applicable to all banks. With regard, however, to classification of areas, there are three alternatives possible. The first one is to provide for different scales of pay in the usual manner, the second is to have the same scale throughout but to provide for increased cost of living by giving either an additional local allowance for general purposes or by giving an allowance for a limited purpose, like house rent allowance. The third method is to provide for higher initial starts in the same scale.

94. Having considered the matter fully, we are of opinion that the best method is to have one uniform basic scale for all employees of each group of banks but with reference to the different areas, to provide for higher initial starts in the same scale to be supplemented by a further house rent allowance in certain important cities where housing accommodation may be difficult and more expensive than usual. Any reference to basic pay in any portion of our award should therefore be understood as the basic pay which the particular employees is getting at the relevant period in the particular pay scale fixed by us.

CHAPTER VI

Scales of Pay—Clerical Staff

SECTION 1—Demands etc.

95. The most important item of dispute before us is the one relating to scales of pay and dearness allowance. We shall first take up the subject of the pay of the clerical staff.

96. The general demand put forward by the All India Bank Employees' Association is for basic pay on the following scales:—

"Grade II.—All routine staff in General and Cash Department, Godown keepers, assistant godown keepers, poddars, munshis, typists, stenographers, sircars, air-condition plant attendants etc. Rs. 150-10-250-12½-325-15-355-20-375. Maximum to be reached on the twentieth year of service. No efficiency bar in the proposed grade.

Grade III.—Supervisory staff—Employees whose normal duties are to supervise over the work of general staff, e.g. Sectional-in-charges, department-in-charges, head clerks, clerk-in-charge, supervisors, probationary assistants, junior assistants, sub-accountants, assistant accountants, inspectors, etc. Rs. 250-20-450-25-550. No efficiency bar in the proposed scale.

Grade IV.—Administrative staff—Employees whose nature of work are administrative such as accountants, agents, auditors, managers, etc. etc. including General Manager Rs. 500-30-710-40-750-50-1000.

In no case shall the basic minimum wage of an employee be less than Rs. 75/- per month, and the maximum total emoluments, including all monthly allowances of any kind of an employee, be more than Rs. 2,000 per month. The following percentage shall be adhered to among the employees in Grade II, Grade III and Grade IV:—

Grade II	...	70%
Grade III	...	25%
Grade IV	...	5%

There should be uniform scale of pay for all bank employees throughout the Indian Union irrespective of working funds or deposits or area."

97. On behalf of the employees of the Imperial Bank of India, the three Staff Associations of employees demand the following scale of basic pay:—

"Grade II.—General staff—Cash and clerical—Rs. 100-10-200-15-350. Maximum should be reached on the 21st year of service and there should be no efficiency bar.

Grade III.—Supervisory staff—Rs. 200-15-275-20-475. All employees whose normal duties are to supervise the work of the general staff such as head clerks, clerks-in-charge.

Grade IV.—Special supervisory staff—Rs. 350-25-500. Sub-accountants, head cashiers, junior staff assistants.

Grade V.—Senior assistants—Rs. 500-30-710-750. Employees whose nature of work is administrative but not of first grade authority.

In no case should the basic minimum wage of a subordinate employee be less than Rs. 70/- per month and in no case should the maximum total emoluments including all monthly allowances of any kind of an employee should be more than Rs. 1,750/- per month. There should be no direct recruitment in grades III, IV and V. Promotion should be on seniority and merit for each Circle separately."

98. There are slight variations in the figures put forward by the three Circle Associations. The charter of demands by the Bombay Circle Association (Bombay) asks for a scale between Rs. 125 to Rs. 500 for clerical staff; and Rs. 400 to Rs. 600 for sub-accountants and head cashiers. All the demands ask for additional special allowances over and above the basic pay for certain categories of workmen. During the arguments before us the demands on behalf of the employees of the Imperial Bank of India were, more or less, in line with the demands presented by the All India Bank Employees' Association. Formal petitions

for amendment of the demands were also filed before us. The original demands, however, are not altogether without significance, though they must be taken in conjunction with the demand under the head of dearness allowance. The banks did not, in their reply statement, commit themselves to any definite scales of pay. Most of them merely stated that the scales of pay awarded by the Sen Tribunal were unduly high and cast on them an unbearable financial burden. All of them stated that the pre-Sen position was satisfactory and provided for adequate pay and allowances and that no case was made out for increasing the same to any extent.

99. The arguments before us on these crucial issues of scales of pay and dearness allowance covered a wide field. The unions' case was first presented very elaborately by Mr. Chari, Mr. Phadke and Mr. Dudhia. Thereafter the banks' contentions were fully developed and towards the close of the discussion the banks make up their mind to put in two scales of pay, one for junior clerks and another for senior clerks. These statements were furnished when it became clear that there would be classification of banks both according to their capacity and also according to areas, more or less on lines similar to the Sen Award. At the request of the Tribunal, the banks put forward a more or less agreed and uniform scale applicable to groups of banks as classified on the above lines. Later on, a further study and analysis of these figures during the discussion before us and a comparison with pre-Sen scale of emoluments revealed certain anomalies. In the light of the further criticisms advanced on behalf of the workmen and particularly on a reconsideration of the question whether there should not be only one grade instead of two grades for the clerical staff, the bigger banks presented an alternative scale of pay for one single grade for the clerks.

100. Their final scales of pay for 'A' class banks are as follows:—

Area I	Rs. 75—5—105—5—123—7—130—E. B. 7—144—8—160—10—180—E. B. 10—210—12—222 E. B. 12—246—14—260—15—275.
	Dearness allowance 35 per cent with a minimum of Rs. 45 per mensem.
Area II	Rs. 65—5—95—6—119—E. B. 6—125—7—139—8—155—9—164—E. B. 10—204—E. B. 10—244.
	Dearness allowance 30 per cent with a minimum of Rs. 35 per mensem.
Area III	Rs. 60—4—84—5—99—E. B. 5—104—6—116—7—144—E. B. 8—168—9—177—E. B. 9—213.
	Dearness allowance 25 per cent with a minimum of Rs. 30 per mensem.

Smaller banks also put in their own scale. (The relevant exhibits are Exhibits Nos. B-95, 126, 128 and 131).

101. The demand of the workmen in respect of dearness allowance was that on every rise of 10 points in the middle class cost of living index over 250 calculated region-wise and according to the index figures of the place nearest to it with 1939=100 as base, 5 per cent. should be paid on the first Rs. 100 and 2½ per cent. on the next Rs. 100 and 1½ per cent. on the balance, of monthly pay. There were demands also for house rent allowance and several other allowances. Contribution towards provident fund was asked for at 12½ per cent of monthly basic pay. In addition, there were demands relating to payment of bonus, gratuity and in some cases, pension. In addition to these demands for direct financial payments, there were claims for amenities like medical relief, insurance against accidents, sickness and old age, leave facilities etc. We have to bear in mind the totality of the burden under these and similar heads before we come to a just conclusion of what should be the proper wage scale.

102. The Sen Tribunal, before whom the demands of the workmen were not so high-pitched as now, fixed the scales of basic pay at the level of prices as in 1944 in respect of three groups of banks and three different areas as classified by them as follows:—

Class 'A' Banks—

Class I areas	Rs. 96—6—132—7—174—8—190—205—9—250—10—290. (6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)
Class II areas	Rs. 82—5—112—6—148—7—162—172—8—212—9—248. (6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)
Class III areas	Rs. 70—4—94—5—124—6—136—145—7—180—8—212. (6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)

Class 'B' Banks—

Class I areas	. .	Rs. 92—6—128—7—170—8—186—200—9—245—10—285.
		(6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)
Class II areas	. .	Rs. 78—5—108—6—144—7—158—167—8—207—9—243.
		(6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)
Class III areas	. .	Rs. 66—4—90—5—120—6—132—140—7—175—8—207.
		(6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)

Class 'C' Banks—

Class I areas	. .	Rs. 86—5—116—6—152—7—166—180—9—225—10—265.
		(6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)
Class II areas	. .	Rs. 83—5—103—6—139—6½—152—160—7—195—7½—225.
		(6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)
Class III areas	. .	Rs. 62—4—86—5—116—5½—127—135—6—165—6½—191.
		(6 yrs.) (6 yrs.) (2 yrs.) (1 yr.) (5 yrs.) (4 yrs.)

For 'A' class banks the award became operative from 12th February 1950. For 'B' class banks from 12th August 1950 and for 'C' class banks from 12th February 1951. The whole award, however, was declared void by the judgment of the Supreme Court dated 9th April 1951. However, the Legislature passed an Act termed "Industrial Disputes (Amendment and Temporary Provisions) Act" which froze the scales of pay (inclusive of increments) and dearness allowance and certain other allowances as they stood on 31st March 1951 until there was a settlement or an award by a fresh tribunal. Section 7, sub-section (2) of the afore-said Act also expressly reserves a right for the award of any new tribunal making such changes with such retrospective effect as it may consider just and reasonable.

SECTION II—Scales of pay awarded

103. The demand for an initial basic pay of Rs. 150 per month for the clerical staff was mainly rested on the principle of a minimum subsistence wage. That was the fundamental position taken on behalf of the workmen. They wanted that basic pay should be fixed at a consolidated level of 250 cost of living index figure (base year 1939=100) calculating the needs of the worker as for a family of 3.6 consumption units as minimum. So calculated, the amount should be fixed at $30 \times 180 \times 250 \times 3.6$.

Rs. 154-4-7. The demand was moderated down to

$$100 \times 105 \times 3$$

Rs. 150. This formula is worked out on the basis that the consumption units for middle class worker's family should at least be taken at the average figure of 5.6 as per Shri Subramanian's Report as at the eighth year of service and at 3.6 units at the initial start after allowing for a deduction of .8 unit for the wife and .6 unit for each of two children. The consolidation is to be at the level of 250 cost of living index figure, 105 being the index figure for Bombay taken into account by the Rau Court of Enquiry. Rs. 30 is taken as it was the minimum for an industrial worker's family with three consumption units so fixed by the Rau Court of Enquiry which adopted Rs. 35, Rs. 30 and Rs. 25 as the minimum wage for urban, semi-urban and rural areas. As the cost of living index figures relate only to working class cost of living, 80 per cent more is added as required for the needs of the lower middle class worker as recommended by Shri Despande and also approved by Justice Rajadhakshya in his Postal Award. Mr. Chari who appeared for the majority of bank employees was content to accept 80 per cent as the proper co-efficient for such purposes, but Mr. Phadke claimed that the percentage should be at least 100, while Mr. Dudhia who appeared for the unions affiliated to the Indian National Trade Union Congress claimed even a much higher percentage. As regards the size of the family of the individual worker, Mr. Chari claimed that the average size of the family as seen from Shri Subramanian's Report should be taken to be such as to require provision for at least 5.6 consumption units. Mr. Chari did not accept that the basic demand should, in the case of clerical staff belonging to middle class, be taken as the pay due to the workmen only in the eighth year of service as is generally assumed. His main argument was that for the subordinate staff the consumption units should be taken as at least 4, and for the middle class worker at least 5, at the initial start itself. He wanted that it should be so from the beginning, just as in the case of the industrial worker. But even assuming that two consumption units were deducted for fixing the pay at the initial start, he argued that the formula set out as above worked at not less than Rs. 150. On these lines, very elaborate arguments were presented to us in the light of the various figures and statistics found in the series of reports by Shri Despande

on family budgets of industrial workers for 18 places and Shri Subramanian's Report of an enquiry into the middle class family budgets. Frequent references were made to the findings of the Rau Court of Enquiry, the Divatia Textile Labour Enquiry Committee, the U.P. Labour Enquiry Committee, Justice Rajadhaksha's Postal Award and the Central Pay Commission's Report. The wealth of material culled from these authorities and statistics was ably presented to us and critically analysed in support of the demand for basic pay at Rs. 150 as at the level of 250 index figure up to which it was claimed that the rise in the cost of living should be fully neutralized and that what was previously given as dearness allowance over the pre-War scale of pay should be absorbed and consolidated into basic pay.

104. Mr. Phadke who appeared on behalf of the majority of the employees of the Imperial Bank of India and also for workmen of the important Exchange Banks supported Mr. Chari on this line of reasoning but he also urged a different method of approach mainly on the lines adopted by the Sen Tribunal and based on the actual figures of expenditure of the middle class family worker in the various income groups as set out in Shri Subramanian's Report. He laid great stress on the statistics found in both Shri Subramanian's Report and Shri Deshpande's Report which he claimed to be of great authority. The Tribunal was asked to fix a minimum subsistence wage for the workman in the light of what may be described as the principle of finding out "where the budget balanced and savings commenced" according to the figures of earnings and expenditure as revealed in these enquiries. He approved of this method of solving the problem which was adopted by the Sen Tribunal. He objected however to the reasoning of the Sen Tribunal in Paragraph 74 of their award. His main criticism was that the Sen Tribunal went wrong in confining their attention to the lowest level of the income group, i.e. below Rs. 100 per month and to the size of the family and the consumption units of that particular group only. According to him, the proper procedure would have been to take the averages of all the income groups up to Rs. 500 or at the worst the average of the two income groups up to Rs. 150. A majority of the workmen would really belong to the income group above Rs. 100. His further criticism was that the Sen Tribunal went wrong in taking the average for two places only, viz. Bombay and Calcutta. Full significance was not attached to the fact that in the Delhi budgets the lowest income group was over Rs. 100. The complete omission of any reference to the Ahmedabad figures which, if taken into account, would have increased the averages considerably was further commented on by Mr. Phadke and by Mr. Dudhia. On the basis of their suggestions the figures were worked out in an elaborate manner and it was sought to be established that if consolidation was allowed at a figure of 250 level of cost of living index, the demand for basic pay at Rs. 150 was amply justified and was indeed less than the proper calculations. (In passing it may be stated that basic pay was claimed at Rs. 125 per month in the demand by the Ahmedabad unions though they wanted full neutralization in dearness allowance). As already stated the 80 per cent increase for the needs of the middle class workman was also claimed to be inadequate. This latter contention was supported by reference to the figures in Deshpande's Reports and also Subramanian's statistics at the points where the budgets of the middle class families in various groups balanced. In Shri Subramanian's Report, the budgets did not really balance even up to Rs. 300 income level.

105. On the other hand, the main argument on behalf of the banks was that the principle of minimum subsistence wage, even assuming it to be the right principle should provide only for three consumption units and that too in the eighth year of service. The proper co-efficient (for correlating the needs of the middle class workman with those of the industrial worker) should not exceed 60 per cent at the present time. The banks very strongly urged that it would be totally unsafe to rely upon the various statistical data contained in Shri Subramanian's Report, particularly for the purpose of the enquiry before this Tribunal. It was pointed out that its primary objective was to prepare a cost of living index for the middle class which was not done. Further, the results of the survey should be deemed to be vitiated because the "non-response" of the employees from whom full four quarterly budgets were asked for was so great that a fresh survey ought to have been decided on. Moreover, the enquiry suffered from what may technically be described as 'bias'. The percentage of full budgets that were finally available and were analysed was totally insufficient to form a safe conclusion. There were no budgets invited from single persons. Persons with surplus budgets, and those whose families had other earning members could not be expected to furnish the necessary information as it was not in their interests to do so and as it might possibly prejudice their fellow employees chances of getting better scales. It was also pointed out that the income groups varied within large limits—Rs. 30 to Rs. 500. There were also not sufficient external checks to test whether the

results of this survey on material points even from this inadequate sample, were otherwise in accordance with known facts. It was vehemently contended on these and other grounds that Shri Subramanian's Report should not be accepted by us as the basis of any useful argument on the question of what should be the proper wage scale.

106. The main principle to be adopted by us in fixing a wage scale was therefore, according to the banks, the method of comparing the prevalent wage scales in allied concerns and on a regional basis, where, at any rate, the wage scales have been fixed in recent years either by collective bargaining or by awards. Several such awards were placed before us. Tabular statements of the total emoluments in various commercial concerns, Central and State Governments' scales of pay, scales of pay in force in big municipalities were all placed before us and analysed. The banks put forward their own proposals as regards the scales of pay which they claimed to be in accordance with the general trend of wages in various comparable concerns. It was also particularly stressed upon us that the banks' capacity to pay should be the prime consideration and no pay scale should be devised so as to put an unbearable burden on the banks. One of the main arguments before us was that the Sen Award scales were unduly high. It was urged that even the initial burden on the banks was very high and when the incremental scales came into force the burden would become heavier and heavier. The industry could not bear it. These scales were much higher than the scales in existence in comparable concerns. Tabular statements of the increase in expenditure relating to the establishment charges of the clerical and subordinate staff due to the operation of the Sen Award were filed before us by various banks in support of their contentions.

107. We have now to consider these main arguments and several subsidiary ones and form our own conclusions. Before doing so, it is advisable to refer to what has been authoritatively laid down as the 'principles' which should guide us in fixing a wage structure.

108. The Committee on Fair Wages have laid down certain broad principles for the determination of fair wages. In Chapter II of their Report they state that "any attempt to evolve principles for governing the fixation of wages must be made against the background of the general economic condition of the country and the level of the national income..... The comparatively low level of our national income should not be used as an argument against the prescription by law of minimum standards below which, on social grounds, no one should be allowed to fall. But in adopting measures for the betterment of industrial workers, the interest of the community as a whole should not be overlooked..... The present level of our national income does not permit the payment of a "living wage" on standards prevalent in more advanced countries. But this should not preclude the fixation of fair wages on different and lower standards. At almost any level of the national income, there should be a certain level of minimum wages which society can afford; what it cannot afford are minimum wages fixed at a level which would reduce employment itself and thereby diminish the national income". Later on, the Report says, "The living wage should enable the male earner to provide for himself and his family not merely the bare essentials of food, clothing and shelter but a measure of frugal comfort including education for the children, protection against ill-health, requirements of essential social needs, and a measure of insurance against the more important misfortunes including old age". Though the living wage is the target, it has to be tempered, even in advanced countries, by other considerations, particularly the general level of wages in other industries and the capacity of the industry to pay. In India, however, the level of the national income is so low at present that it is generally accepted that the country cannot afford to prescribe a minimum wage corresponding to the concept of a living wage. However, a minimum wage even here must provide not merely for the bare subsistence of living but for the efficiency of the worker. For this purpose, it must also provide for some measure of education, medical requirements and amenities. Article 43 of the Constitution lays down as one of the directives of State policy that "the State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas".

109. The Fair Wages Committee Report later on summarises the main principles in the following terms:—

"While the lower limit of the fair wage must obviously be the minimum wage, the upper limit is equally set by what may broadly be called the capacity of the industry to pay. This will depend not only on the

present economic position of the industry but on its future prospects. Between these two limits the actual wages will depend on a consideration of the following factors:—

- (i) the productivity of labour;
- (ii) the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities;
- (iii) the level of the national income and its distribution; and
- (iv) the place of the industry in the economy of the country."

As regards the capacity of the industry to pay the Report states that it must be dealt with on an industry-cum-region basis. The relevant criterion should be the capacity of a particular industry in a specified region and, as far as possible, the same wages should be prescribed for all units of that industry in that region. The Report further holds that the standard family of the worker should be taken as one requiring three consumption units. This, they hold, on the basis of the results of enquiries into family budgets conducted in the past.

110. These principles have been adopted by the decisions of the Labour Appellate Tribunal. The Fair Wages Committee Report no doubt deals with the case of industrial workers, but the same principles have been generally held applicable for fixing the wages of clerical staff also belonging to lower middle class families. In the *Army and Navy Stores Ltd., Bombay versus Their Workmen*, 1951 (2) Labour Law Journal, 31, the Bombay Bench of the Appellate Tribunal holds that generally basic wages once fixed by an award should not be disturbed for a reasonable time and should not be altered without material change of circumstances. In the *Buckingham & Carnatic Mills Ltd. versus Their Workers*, 1951(2) Labour Law Journal, 314, the Labour Appellate Tribunal approved of the principles laid down in the Report of the Fair Wages Committee and proceeded to apply them to the circumstances of that case—paragraphs 42 and 43 at page 327. They also adopted the theory of one wage earner and three consumption units as laid down in the aforesaid Report—paragraph 48. In a very recent decision reported in 1951(2) Labour Law Journal, 183, *Caltex (India) Ltd. versus Their Workmen*, the Appellate Tribunal states (paragraph 21) that the important factors for fixing the wage scale would be the capacity of the industry and the prevailing rate of wages and they are to be appraised on the footing of industry-cum-region basis. Again, in the *Metal Box case*, 1952(1) Labour Law Journal, 822, at 828 the Tribunal states as follows:—It is true that we should aim at a progressive improvement in wages but such aim is necessarily conditioned by existing factors. It is the consistent policy of this Tribunal to grant to the workmen a scale which is in accord with the trend of wages and also with the capacity of a concern to pay and if possible to supplement it with bonus out of the available surplus of profits." The basic principles are now well established and should be duly applied.

111. In view of these authoritative pronouncements, we have to estimate the relative force of the various factors which have to be taken into consideration in fixing a just scale of fair wages for the banking industry. In the first place, there is no exact standard for measuring the productivity of labour in connection with banking work. That factor therefore, is not capable of precise application. The pay cannot be correlated to results of productivity as we have not sufficient data, even assuming an uniform standard of normal work and productivity can be laid down. As regards the place of the industry in the economy of the country it is undoubtedly an industry whose existence and sound working are vital for developing the country's trade and commerce, for the agricultural and industrial advancement of the country and for the sound working of its currency and for the successful implementation of the Five Year Plan sponsored by the Government. This industry, therefore, cannot be allowed to languish or to suffer from heavy financial responsibilities. The wage structure, therefore, should be such as to be within the capacity of the industry to bear in the light not only of its present position but of its future possibilities also. It must also be on a decent scale as to attract trained and efficient personnel at all levels for carrying on its work.

112. The other two factors are the prevailing rate of wages in the same and similar occupations in the same or neighbouring localities and the level of national income and its distribution.

113. The first report of the National Income Committee issued in April 1951 fixed the national income at Rs. 255 on the basis of the national income for 1948-49 and of population as in 1948. This, however, was a provisional estimate and subject to certain infirmities. The later revised estimates take the figure a little higher and the new Five Year Plan indicates that it will take about 25 years for the national income to get doubled. This particular factor cannot, therefore, be of very much use to us as it can only have a remote bearing on the question of

total emoluments of a bank employee. As regards the present state of distribution of wealth in the country between capital and labour a violent and sweeping alteration cannot lead to stability or progress. All that can be aimed at is a gradual levelling up but at an increasingly progressive and quick rate. 'Hasten slowly' is a useful maxim and a much needed caution. Eminent people who have requisite knowledge are saying that capital is shy and not forthcoming as it should for the development of the country. The success of the new Five Year Plan requires that capital should not be scared away but, on the other hand, it should be encouraged to flow in and profits also should be ploughed back in an increasingly large measure into the industries.

114. We are finally left then with the two fundamental factors of a minimum subsistence wage as the floor and a fair wage within the capacity of the industry to pay on the industry-cum-region basis as ceiling. Having regard to the All India operation of the industry and its units it is difficult to define the regional area referred to in the formula "industry-cum-region basis". Banking, as has been already pointed out, is more a service than an industry producing goods. It cannot therefore have a region-wise character, like the major industries of the country, e.g. textiles, jute, tea, rubber, etc. Then again, we have not similar concerns for purposes of comparison. Available comparable units are if at all only the major commercial concerns engaged in production or distribution of commodities or services like insurance, transport etc. and certain governmental departments. It is against all this background that we have now to consider the problem before us.

115. Having given our best attention to the several arguments advanced before us and in the light of the statistical information so industriously gathered, carefully analysed and lucidly presented to us by Counsel on behalf of both parties (whose labours in this connection we specially acknowledge and appreciate) we will now state our final conclusions regarding the pay structure, reserving to a subsequent chapter a detailed discussion on the several important topics discussed before us.

116. Before laying down our scale, we might explain that what we propose to do is to have four scales for the four different groups of banks as classified by us. The differences in the cost of living in different parts of the country are provided for to a substantial extent by having a three-fold classification of areas. The extra cost of house rent, over and above its normal incidence will be covered by a special house rent allowance for a few selected and more costly places. We have provided for a time scale with increments spread over a span of 25 years. Our scheme in effect provides for a running scale; only the minimum and the maximum will not be the same for the four groups of banks. The employees in classes I and II areas will have their initial start with certain increments in their favour, the maximum also being correspondingly extended. In view of the difference in the paying capacity of banks of varying sizes and resources progressively declining scales are fixed for smaller banks, as compared with bigger ones, or if we start from the smaller banks, a progressively higher rate is fixed for the bigger banks. The four scales of pay for these banks as fixed by us starting from the minimum of the 'D' group to the maximum of the 'A' group, will be found to be one single continuous scale with appropriate increments spread over a span of 25 years. The advantage of this system can easily be felt in relation to the question of transfer of employees from one area to another and also in cases where a bank passes on from a lower to a higher class.

117. We have carefully considered the recommendation of the Rural Banking Enquiry Committee which in paragraph 45(f) of their report states that industrial tribunals' awards should not be made applicable to offices of banks situated in cities having a population of less than 50,000. The main reasons given are that it is necessary to encourage banks to open branches in semi-urban and rural centres, and that smaller branches can be run only on the basis of a minimum staff. It is also necessary to have a certain amount of elasticity and informality in the case of these branches, otherwise it would be difficult to run them and popularize banking among the rural people. The nature of the work at the branches of banks in rural areas is of an intermittent character. The scales of pay which tribunals fix are generally high and it will be burdensome on banks to adopt the same scales in places where the cost of living is much low, and where the staff is locally recruited. All the factors set out above have received our due attention. In the light of these considerations, we have introduced a four-fold classification of banks instead of three as the Sen Tribunal did and further provided for lower wages in smaller banks. It will not be right, in our opinion, to exempt some branches of banks (big or small) from our award altogether, particularly as the population figure of 50,000 which is recommended, if adopted, will make our award inapplicable to several branches, offices, pay offices and sub-offices and a

substantial number of bank employees (about 9,600) will not have the benefit of an adjudication by a Tribunal. Their pay scales and conditions of service will be left largely in the hands of the employers themselves. We cannot, therefore, adopt the suggestion of giving exemption in the manner recommended by the Rural Banking Enquiry Committee, but in so far as the various considerations which they have set out, legitimately apply, we have provided for them in our pay scales.

118. The pay scales, however, only provide for what is known as "basic pay". It will be wholly wrong to compare the basic pay scales alone as they are found in different units of other industries or Government offices. The real comparison must be with reference to the total emoluments at any relevant period of time. The scheme of dearness allowance which we have provided, together with a supplementary addition of house rent allowance in certain cases must be taken along with the basic pay scales, for determining the total emoluments which can then be compared with advantage with the total emoluments of the clerical staff in allied concerns. In our opinion, such comparison will not be found to be disadvantageous to the bank employees provided we exclude the cases of big global concerns whose resources are infinitely greater than even the leading Indian Banks.

119. We direct that the following pay scales should apply to the clerical staff:—

Class 'A' Banks

Area	I	Rs. 85-5-100-6-112-7-140-8-164-9-245-10-265-15-280.
"	II	Rs. 73-4-85-5-100-6-112-7-140-8-164-9-245.
"	III	Rs. 66-3-69-4-85-5-100-6-112-7-140-8-164-9-227.

Class 'B' Banks

Area	I	Rs. 73-4-85-5-100-6-112-7-140-8-164-9-245.
"	II	Rs. 66-3-69-4-85-5-100-6-112-7-140-8-164-9-227.
"	III	Rs. 57-3-69-4-85-5-100-6-112-7-140-8-164-9-200.

Class 'C' Banks

Area	I	Rs. 66-3-69-4-85-5-100-6-112-7-140-8-164-9-227.
"	II	Rs. 57-3-69-4-85-5-100-6-112-7-140-8-164-9-200.
"	III	Rs. 54-3-69-4-85-5-100-6-112-7-140-8-164-9-191.

Class 'D' Banks

Area	I	Rs. 57-3-69-4-85-5-100-6-112-7-140-8-164-9-200.
"	II	Rs. 54-3-69-4-85-5-100-6-112-7-140-8-164-9-191.
"	III	Rs. 51-3-69-4-85-5-100-6-112-7-140-8-164-9-182.

(The combined running scale will therefore be as follows :—

Rs. 51-54-57-60-63-66-69-73-77-81-85-90-95-100-106-112-119-126-133-140-148-156-164-173-182-191-200-209-218-227-236-245-255-265-280.)

120. We have later on laid down the scale of dearness allowance, and house rent allowance where admissible. To enable a comparison to be made as indicated in para. 118 supra, we give these rates below:—

Dearness allowance

Bank	Area	Rate	Minimum	Maximum
A, B, C, & D	I	33-1/3%	Rs. 35	Rs. 70
A, B, C & D	II	"	Rs. 30	Rs. 60
A, B, C & D	III	"	Rs. 25	Rs. 40

House Rent allowance

Pay	Bombay & Calcutta	Other places with population 7 lakhs and over.
Upto Rs. 100	Rs. 8	Rs. 6
Between Rs. 101 and Rs. 200	Rs. 12	Rs. 9
Above Rs. 200	Rs. 15	Rs. 12

We desire to make it clear that the reference to rupees in this chapter and elsewhere in our award is to Indian Union currency.

121. We also give the following further directions with reference to the implementation of the above scales of pay:—

- (1) Graduate employees will get an additional two increments at the start if they are already graduates, or later, on graduation while in service.
- (2) Similarly, employees who pass Part I of the examination of the Institutes of Bankers (English, Scottish, Irish or Indian) will have one increment. When they pass Part II, they will have another increment. The increments will also be admissible to such recruits as have passed these examinations.
- (3) There will be only one efficiency bar in the respective scales of pay which will be at the end of the twentieth year of service.
- (4) For Poddars, Collecting Sircars, Money-testers and Gollas the maximum will be the pay as at the end of the twentieth year in each of the scales.
- (5) No employee shall have his basic pay reduced by being transferred to an area where a lesser pay scale applies even though such basic pay may be more than the maximum of the scale fixed for the new station, and he will continue to have the usual increments as from such basic pay onwards. An employee who is transferred to a place where a higher pay scale applies shall have the benefit of such higher scale of that area, i.e. his basic pay should be refixed in the higher scale according to the length of service rendered by him, together with the benefits of any special increment and subject to the deduction of any increment withheld. If, however, such an employee is reverted back from a higher area to a lower area he will thereafter be governed by the pay scale of that area provided however he has not completed a total service of one year in the higher area.

122. It is desirable to make clear that the scales of pay and dearness allowance and special allowances which we are laying down in our award represent only the minimum to which a workman will be entitled. It is not our intention to fetter the discretion or power of any bank to give its workmen or any of them higher salaries or wages or higher dearness allowance or additional allowance or benefits not mentioned in our award. Similarly, even with reference to increments, the banks will have the liberty to give more than one increment in any particular year.

123. With reference to part-time employees such as sweepers, pass-book writers etc. where they are engaged on a part-time basis and also certain employees who intend to appear for certain examinations and desire to have a certificate that they have worked in a banking institution for some time, etc. we do not propose to lay down any definite scale. Obviously, they cannot expect payment at the full rates laid down by us. We, however, fix a minimum of one-third of the appropriate rate of pay and dearness allowance if such part-time persons work for not less than 7 hours per week. This, of course, is only a minimum. We do not think it appropriate to lay down a more detailed graduated scale in accordance with the hours of work.

124. As regards apprentices, those who are unpaid will not be workmen within the definition of the term. Such of them as are paid will, no doubt, satisfy the terms of the definition. It is not possible for us to lay down a general pay scale etc. for them. That will depend upon the nature and quantity of work that is entrusted to them. As this is a variable element a uniform rule is not possible. It must be left to the discretion of the banks to decide which apprentices should be paid and, if so, how much.

125. Some banks might have entered into agreements with their staff regarding pay scales etc. With reference to such agreements prior to the constitution of this Tribunal as for instance, the agreement alleged to have been made between the Bank of Mysore Ltd. and most of its employees we think the terms of the award should prevail over such agreements. Even with reference to the agreements made during the pendency of the proceedings before this Tribunal, this award should govern such employees except in those cases where we have passed a consent award in pursuance of a settlement between a particular bank and its employees.

126. The United Bank of India Ltd. put forward before us a somewhat original scheme for linking operating costs of banks to certain deposit ratios—(1) per employee; (2) per account etc. This scheme was not, however, pressed before us during the arguments. The soundness of the principles underlying it and its practical effect with reference to various banks before us were not canvassed in any discussion. The scheme as such was not only not sponsored but not even remotely referred to by any of the other banks or the workmen. We have not been able, therefore, to examine its soundness as fully as we should otherwise have done. We feel, however, that there are certain points in it which require further consideration and attention by the banking industry as a whole. Beyond saying this we are not in a position to make any further observations. The main features of the scheme are set out in Appendix VI.

127. We shall conclude this chapter by quoting an extract from paragraph 199 of the Sen Award: "A wage scale must primarily insure against the feeling among the employees that they are unable to meet the ordinary responsibilities of their life and that they are thus being unfairly treated; it should also be such that they do not succumb to the temptations that often come in their way, oftener than in most other industries; it should further be such as to inspire and maintain their loyalty and co-operation. The last factor is important but is often forgotten or lost sight of by the employers. There is no reason why Government service should, by being regarded as the best kind of service for clerks, continue to attract the best kind of recruits from the middle class. At least the bigger banks should not be satisfied with the second best or a lower class of recruits, and they must be prepared to pay at a scale sufficient to compensate the relative insecurity of tenure and (in many cases) the inadequate retiring benefits inherent in their services, as compared with the benefits and advantages to be found in Government services. The result of the introduction of better scales of pay and allowances than exist at present is likely to be the gradual elimination of inefficiency, dishonesty and deliberate shirking of work to a marked degree, so that in time the introduction of improved methods of organization would be rendered possible". We respectfully agree with these observations.

CHAPTER VII

Scales of pay for subordinate staff.

128. The demand presented by the All India Bank Employees' Association on behalf of its constituent units was for pay on the following scales:—

Grade I: Sub-grade A—Subordinate staff general *e.g.* peons, bearers, messengers, sweepers, sepoy, hamals, darwans, cycle peons *eac.* Rs. 75—3—90—4—130—5—150. Maximum shall be reached on the twentieth year and there shall be no efficiency bar.

Grade I: Sub-grade B—Jamadar, havildar, head-messenger, armed guard, head peon, liftman, driver, electrician, air-condition plant subordinates. Rs. 90—5—165.

129. The demands presented on behalf of the Imperial Bank of India employees were as follows:—

Bengal Circle:

Grade A—All subordinate staff including messengers, bank guards, godown darwans, garden malls, sweepers, punka pullers, bearers, sepoy, farrashes, watermen, tiffin room boys, malls, peons, coolies, cycle peons, servants at officers house, mathars, bhistis, etc. Rs. 70—4—150.

Grade B—Jamadars or head messengers at branches, deputy jamadar or head messenger at head office, daftries, food-store salesman, impositors, inkman, multigraph operators etc. Rs. 80—5—180.

Grade C—Jamadar or head messenger at head office, compositors, record suppliers, drivers etc. Rs. 90—5—190. In no case should the basic minimum wage of an employee be less than Rs. 70 per month.

Bombay Circle (Poona):

Grade I—Peons, sepoy, sweepers, hamals etc. Rs. 70—3—85—4—125—5—150. Maximum should be reached on twenty-first year of service. In no case should the minimum wage of a subordinate employee be less than Rs. 70.

Bombay Circle (Bombay):

One grade for subordinate staff: Rs. 80—3—110—4—150—5—175 with effect from 12th February 1950 with no efficiency bar.

Madras Circle:

Grade I (a)—Sweepers, scavengers, house servants etc. (subordinate staff).
Rs. 70—3—85—4—125—5—150.

Grade I (b)—Messengers, head messengers, bank guards (messenger staff).
Rs. 80—4—100—5—130—6—190.

130. It may be added that in addition to the scales of pay mentioned above, the workmen have claimed special allowances in respect of certain appointments and have also asked for house rent allowance.

131. On behalf of the major banks a pay scale for subordinate staff was submitted (Exhibit B-58) which provides for the following scales:—

Area I—Scale Rs. 35 to Rs. 70, dearness allowance at flat of Rs. 45, total emoluments ranging from Rs. 80 to Rs. 115, span 26 years.

Area II—Scale Rs. 30 to Rs. 65, dearness allowance at a flat rate of Rs. 35, total emoluments ranging from Rs. 65 to Rs. 100, span 26 years.

Area III—Scale Rs. 25 to Rs. 60, dearness allowance at a flat rate of Rs. 30, total emoluments ranging Rs. 55 to Rs. 90, span 26 years. Annual increments are Rs. 2 for the first few years, and Re. 1 later on.

132. On behalf of small banks Mr. Tilak filed Ex. B-95 showing scales of pay.

Area I—Scale Rs. 30 to Rs. 60, dearness allowance Rs. 20 throughout, total emoluments ranging from Rs. 50 to Rs. 80, span 19 years.

Area II—Scale Rs. 25 to Rs. 50, dearness allowance Rs. 20 throughout, total emoluments ranging from Rs. 45 to Rs. 70, span 19 years.

Area III—Scale Rs. 20 to Rs. 45 dearness allowance Rs. 20 throughout, total emoluments ranging from Rs. 40 to Rs. 65, span 19 years.

133. The United Commercial Bank Ltd. submitted its proposals, marked as Ex. B-128, which are as follows:—

Area I—Scale Rs. 30 to Rs. 65, local allowance Rs. 10 to Rs. 15 and dearness allowance Rs. 15 to Rs. 20, total emoluments ranging from Rs. 55 to Rs. 100, span 26 years.

Area II—Scale Rs. 30 to Rs. 65, dearness allowance from Rs. 15 to Rs. 20 and local allowance from Rs. 5 to Rs. 10, total emoluments ranging from Rs. 50 to Rs. 95, span 26 years.

Area III—Scale from Rs. 30 to Rs. 65, dearness allowance from Rs. 15 to Rs. 20, total emoluments ranging from Rs. 45 to Rs. 85, span 26 years.

134. Mr. Asayekar on behalf of the banks in Travancore-Cochin State pleaded for a special low scale both for clerical and subordinate staff, and filed Ex. B-126. His scales for subordinate staff are:

For places having a population over one lakh Rs. 25—1—35—E.B.—1½—50, and dearness allowance Rs. 20. For other places Rs. 20—1—30—E.B.—1—40, and uniform dearness allowance of Rs. 15.

135. Justice Divatia in his Bombay Award fixed the scale of Rs. 30—2—50—1—65, for the big banks and Rs. 24—1—35—2—55 for small banks. For chokras below 18 years of age he fixed a start of Rs. 25 and Rs. 19 respectively until they attain that age. Mr. Gupta's award in Bengal fixed several scales for different categories, the basic pay ranging from Rs. 30 to Rs. 70 for initial start and from Rs. 60 to Rs. 100 as the maximum. The Central Pay Commission also recommended three scales for employees in class IV viz. Rs. 30—¼—35, Rs. 35—¼—50, and Rs. 40—1—50—2—60. In the Central Secretariat two scales exist viz. Rs. 30—¼—35 and Rs. 35—1—50. In the Bombay Secretariat there are three scales, viz. Rs. 35—¼—40 for peons etc., Rs. 40—1—50 for naiks, and Rs. 50—1—55 for havildars. The scales in the mufassil are of course less. The scales in other States are less than the Bombay scale. Among commercial concerns the pay scales generally start with Rs. 30 and go up to Rs. 60 or Rs. 65. The Oriental Life Assurance Co. has a scale of pay for subordinate staff ranging from Rs. 30 to Rs. 64. For a just comparison we must, of course, have the total emoluments and not the pay scale alone.

136. The Sen Award relied mainly upon the figures in Deshpande's Reports with respect to working class families and concluded that the minimum requirements for a new entrant at the rate of 2:25 consumption units for class C bank in class I area would come to Rs. 52, in class II area Rs. 43 and for class III area Rs. 35. On this basis they fixed their scales of pay as follows:—

Class 'A' Banks

Class I area	Rs. 60-1-74-1 1/2-89
Class II area	.	.	.	.	.	Rs. 49-1-63-1 1/2-78
Class III area	.	.	.	.	.	Rs. 40-1-54-1 1/2-69

Class 'B' Banks

Class I area	Rs. 56-1-70-1 1/2-85
Class II area	.	.	.	.	.	Rs. 46-1-60-1 1/2-75
Class III area	.	.	.	.	.	Rs. 38-1-52-1 1/2-67

Class 'C' Banks

Class I area	Rs. 52-1/2-59-1-69
Class II area	.	.	.	.	.	Rs. 43-1/2-50-1-60
Class III area	.	.	.	.	.	Rs. 35-1/2-42-1-52

137. After careful consideration we fix the pay scales of the subordinate staff as follows:—

Class 'A' Banks

Area I	.	.	.	.	.	Rs. 40-2-54-1-70-2-72
" II	.	.	.	.	.	Rs. 36-2-54-1-69
" III	.	.	.	.	.	Rs. 34-2-54-1-68

Class 'B' Banks

Area I	.	.	.	.	.	Rs. 36-2-54-1-69
" II	.	.	.	.	.	Rs. 34-2-54-1-68
" III	.	.	.	.	.	Rs. 32-2-54-1-67

Class 'C' Banks

Area I	.	.	.	.	.	Rs. 34-2-54-1-68
" II	.	.	.	.	.	Rs. 32-2-54-1-67
" III	.	.	.	.	.	Rs. 30-2-54-1-66

Class 'D' Banks

Area I	.	.	.	.	.	Rs. 32-2-54-1-67
" II	.	.	.	.	.	Rs. 30-2-54-1-66
" III	.	.	.	.	.	Rs. 28-2-54-1-65

(The combined running scale will therefore be as follows :—

Rs. 28-30-32-34-36-38-40-42-44-46-48-50-52-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-72).

138. To enable a comparison to be made of the total emoluments awarded by us and those admissible to the subordinate staff in other concerns, we give below the rates of dearness allowance and house allowance granted by us.

Dearness allowance

FLAT RATE

Bank	Area I	Area II	Area III
A	Rs. 35	Rs. 30	Rs. 25
B	Rs. 25	Rs. 22-8-0	Rs. 20
C	Rs. 15	Rs. 12	Rs. 10
D	Rs. 13	Rs. 12	Rs. 10

House rent allowance

Bombay & Calcutta

Rs. 8 flat.

Other places with population of
7 lakhs and over.

Rs. 6 flat.

139. We direct that as in the case of clerks there will be only one efficiency bar in the respective scales of pay at the end of the twentieth year of service. We further direct that the provisions of paragraph 121 (5) will also be applicable to the subordinate staff.

For employees who are below 18 years of age we allow a reduction of Rs. 5 per mensem. Such reduction shall apply only until they attain 18 years of age. In the case of subordinate staff we have fixed the increments at Rs. 2 and Re. 1. We think it is more satisfactory to give larger increments in the beginning of service and smaller ones towards the end. This we believe is more advantageous to the workmen.

140. We were told that there were certain categories of workmen in the cash department in the Imperial Bank of India known as podars, money-testers, and collecting sarkars. In the case of the Indian Bank Ltd. a similar class of workmen go by the name gollas. It was claimed that it was not proper that they should be placed in the category of clerks; but at the same time it was conceded that they should be remunerated at a higher rate than ordinary members of the subordinate staff. This distinction was sought to be supported with reference to the consideration that these employees are generally drawn more from the middle classes than from working classes. Their work is of such a character that the same can be done by intelligent members of the subordinate staff as well, and the qualifications necessary are not so high as for routine clerks. We are of opinion that poddars, money-testers, collecting sarkars and gollas should be classified as clerks and not as members of the subordinate staff. But we think that in their case there may be a lower maxima in the pay scale. We accordingly fix the maxima for these categories of workmen as at the twentieth years of service in the several scales of pay which we have fixed for the clerical staff.

CHAPTER VIII

Item No. 2: Dearness allowance to staff etc.

SECTION I—Rate of dearness allowance

141. Item 2 reads as follows:—

"Dearness allowance to staff as well as pensioners. Can a portion of the dearness allowance be transferred to, and absorbed in, the basic wage? In particular can this be done in the case of banks in the United Provinces in respect of the allowance payable at the commencement of Shri B. B. Singh's award?"

142. Dearness allowance is intended to provide for an increase over the basic pay in order to meet a rise in the cost of living where it is expected that it will be only of a temporary character, and will not last long. Instead of having quick revisions of the wage scale to meet such contingencies, the practice has been to fix the basic wage at a level below which prices will not go down so far as can reasonably be foreseen. An increase over and above this point due to a rise in cost of living is provided for by the grant of dearness allowance. Such is the general theory in support of the grant of this kind of allowance. The system has been in vogue for nearly 15 years. It may now be taken to have been accepted in principle as justifiable. In truth, the real salary of an employee at any particular period of time must be regarded as made up of both basic pay and dearness allowance. There is however one difficulty in splitting this item of salary into these separate heads; namely, that wherever further benefits, like contributions to provident fund, bonus, scale of gratuity, pension etc. are linked to basic pay alone and not to the aggregate of basic pay and dearness allowance, to that extent the employees will receive less. It is therefore necessary that one should be very careful in selecting the level at which basic pay should be fixed. Soon after the commencement of the World War II in 1939 the system of dearness allowance came into existence due to a steep rise in cost of living. Even now, nearly seven years after the termination of hostilities the prices of commodities continue to be at a high level. So far as can be foreseen, there is no likelihood of prices coming down to pre-war level. A portion of the dearness allowance therefore has got to be absorbed in the basic pay if we take pre-war position as it stood then.

143. The Sen Award adopted 1944 as the base year for purpose of fixing the basic pay and provided for dearness allowance for the increase in cost of living over and above what it was in various places in 1944. The Central Pay Commission thought the sums of Rs. 55 and Rs. 90 would represent a fair minimum wage for a working class family and middle class family respectively with the cost of living index at about 285 taken to be the average All India cost of living index for the month of January 1947. They thought the prices had reached the peak level in January 1947 and would not rise any further. They provided for a progressive decrease in the rates of dearness allowance as the salary of an employee

increased or the cost of living index came down. When the index went below the figure of 180, dearness allowance was to cease, but a small portion of it was to be absorbed in the basic pay for the lowest class of employees. Under the scheme of the Sen Award dearness allowance would start from a much higher index figure than 180. (1939 base year = 100). In paragraph 58 of their award they set out figures for the year 1944 for 8 important places. In other words, they absorbed a good portion of the dearness allowance over the 1939 level in their basic pay fixed at the level of prices as in 1944.

144. Our attention has been drawn to the observations of the bench of the Labour Appellate Tribunal in *Kamdar Ltd. Versus Their Workmen*.* At page 203 it is stated that the question of consolidation of dearness allowance in part with the basic pay involves an important decision about a complex problem, and it is desirable to await the report of the Central Government's Committee dealing with the question to come to a satisfactory conclusion. Full materials would then be available. At present there are no sufficient data.

145. The Gadgil Committee appointed last year to report on how much of dearness allowance can be absorbed into basic pay without however increasing the total emoluments would appear to have recommended absorption up to a certain percentage. Their report however has not yet been made public. It is not available to us. We are therefore unable to deal with this question in a fully satisfactory manner. We think however that it is not likely that prices will be lower than double the pre-war level.

146. There are two principal methods of providing for dearness allowance. The first method is to fix flat rates or definite percentages of basic salary as dearness allowance varying if need be with the scale of salaries and with slabs. The second method is to link dearness allowance with rise or fall of cost of living index figures. Both these methods have been adopted by employers and also by Industrial Tribunals. The second method is perhaps theoretically better as the primary object of granting dearness allowance is more directly carried out, and also because it provides for automatic adjustment of dearness allowance with the rise or fall in cost of living, of course on the assumption that the cost of living index figures genuinely reflect the same. All the bank awards prior to the Sen Tribunal adopted the first method. The Sen Tribunal however preferred the second method, and linked their scale of dearness allowance to cost of living index. Their scheme related the dearness allowance of any place to the cost of living index figures of such place or the place nearest to it for which the Central Government publish such figures. If any such place was equidistant from more than one place for which such figures are published the average of the figures for the two places was to be taken. The existing series of the cost of living index figures for Bombay City, Ahmedabad, Sholapur, Jalgaon, Kanpur, Nagpur and Madras appropriately reduced to the base of 1944 was to govern the dearness allowance for such places. They fixed definite percentages for every rise of 10 points in the cost of living index figure above the level of 1944. Such percentages vary from 9-3/8 per cent. to 5 per cent. For certain centres the index figures published in the Indian Labour Gazette and for Calcutta the index in the monthly Abstract of Statistics published by the Government of India were adopted. For other places the State Government figures were accepted. This scheme in its actual working revealed such great anomalies that both the banks and the workmen felt considerably dissatisfied with it and condemned it equally in its present form. Tabular statements were filed before us to show how workmen in more costly and expensive cities received less emoluments under this scheme than workmen in admittedly less expensive places. Besides there are at present only about 46 places in the whole of India for which such figures are available. These places are so distributed on the map of India in relation to various places where the banks have offices that the cost of living index figures for them do not properly reflect the real cost of living of the numerous places where the banks have offices. For the whole of Uttar Pradesh we have an index figure for only one place i.e., Kanpur. Whatever the theoretical merits of the scheme may be its practical application has revealed its unsuitability and appears to have caused so much confusion and bitterness that both the parties before us expressed great dissatisfaction.

147. An attempt to improve the system while maintaining its fundamental characteristic by relating the dearness allowance to cost of living index figures and providing for an automatic adjustment was made by Mr. Phadke. He stressed that this method was good in principle and should be adopted by us. His suggestions were:—(1) No year as the base year but only a particular level

in the cost of living index should be taken as the base for fixing basic pay. (2) A uniform basic pay should be fixed for the whole country irrespective of differences in the cost of living. (3) This should be done by fixing a particular figure having regard to the cost of living index and a certain number of consumption units to find out the minimum subsistence level. (4) Having done so far any one particular place, say Bombay, then the same basic pay should be fixed throughout for other places by finding out the appropriate level of the cost of living index of those places which would give the same basic pay and in this connection regard must be had to the differing consumption units of the workmen's family in different places. (5) Dearness allowance should start over and above such cost of living index level in each of those places fixed as above. He had to concede however that cost of living index figures are not available for more than 46 places throughout India including all the figures published by Government, both Central and State, and it is really impossible to provide for other places where such figures are not available except by an arbitrary rule of linking such places somewhat on the lines adopted by the Sen Tribunal to the nearest place where figures were available. This anomaly was inevitable and would perpetuate those very objectionable features which resulted by applying this scheme, against which the workmen themselves complained. This made the scheme so unworkable that he could not present a clear picture to us in spite of the full discussions we had with him on this point. The difficulty of not having index figures prior to 1944 for several of these places proved to be a stumbling block in the way of the scheme.

148. We tried our best to devise other ways and possibilities of linking dearness allowance to the cost of living indices to avoid the glaring anomalies which had been pointed out to us. A full and detailed examination of different suggestions however led to no satisfactory or acceptable position. We are therefore obliged to fall back upon the first method of providing flat rates or definite percentages of basic salary having regard to the present level of prices. Banks advocated only this course. The Central and State Governments are giving dearness allowance only at a flat rate and have not linked the same with the cost of living index, though the Central Pay Commission recommended such a course. Even the Central Pay Commission stated that it would be impracticable to work their dearness allowance scheme with different cost of living indices for different parts of the country, and they recommended that an All India cost of living index should be prepared and published by Government. Quite a large number of industrial awards adopt the flat rate, as can be seen from pages 165 to 173 of "Industrial Awards in India—An Analysis" published by the Central Government. The Reserve Bank of India and the Bombay Port Trust give dearness allowance at a flat rate and have not linked it to cost of living index. This method of providing for dearness allowance, being neither new nor without precedent, cannot be rejected as unsound. No doubt, this method suffers from two defects: (1) There is an element of arbitrariness in splitting up the appropriate salary into basic pay and dearness allowance, and (2) there is no provision for automatic adjustment of dearness allowance in relation to the rise or fall in cost of living. As regards the first, a reasonable forecast of the level below which prices will not fall has to be made to the best of our ability. Such a forecast can however be made though it cannot be done on a strictly scientific basis. As regards the second, even with flat rates or fixed percentages of basic salary, it is not altogether impossible to provide a method for adjusting dearness allowance for future years according to the rise or fall in the cost of living particularly when an All India cost of living index comes into existence. In any case, if it is impossible to devise a proper formula, for automatic revision in future years, that cannot be a ground for preferring the other method by itself to the present one.

149. Another question relating to dearness allowance is, how much of the rise in the cost of living should be neutralized by a grant of dearness allowance. The employees urge that inasmuch as a living wage is not paid and very much less than a living wage is likely to be awarded cent per cent neutralization should be adopted. This is also said to be the practice in Ahmedabad area. On the other hand, the banks contend that cent per cent neutralization has never been given in any award.

150. It is true that the Central Pay Commission thought that the employees who "live on the marginal level in normal times" should get the benefit of full neutralization while in the case of others full neutralization was not on principle justified. Actually the scheme recommended by the Central Pay Commission has not been accepted by the Central Government. The Labour Appellate Tribunal has held in *Buckingham & Carnatic Mills Ltd. Versus Their Workmen** (See paragraphs 62 and 64) that ".....on principle we cannot accede to a claim for dearness allowance which would result in almost complete neutralization."

They pointed out that even the Central Pay Commission's figures, notwithstanding their observations, did not amount to cent per cent neutralization even at the marginal level. They also approved of the two reasons generally given in support of the said view: (1) complete neutralization would tend to add a fillip to the inflationary spiral, and an increase in salaries and wages would itself lead to an increase in prices and thus start the vicious spiral of increasing prices and increasing wages, and (2) the employees also, should like other citizens make some sacrifice. Substantially the same reasons have been given in other industrial awards as well. We find that neutralization in the case of textile mills in Bombay is about 90 per cent in theory, and in practice, owing to absenteeism, about 75 per cent. The sum of Rs. 55 per mensem which the Central Pay Commission has recommended as the minimum emolument of a working class family was divided by them into basic wage of Rs. 30 and dearness allowance of Rs. 25. The cost of living index figure then was 285 (1939=100). The rate of neutralization was appreciably less than cent per cent. Our attention was drawn to certain awards where something like 75 per cent neutralization only was adopted. The Sen Award substantially adopts the generally accepted view. In cases where however an employee was just on the poverty line or was living on a marginal level in pre-war times, different considerations arise. (See para 125 of the Postal Award by Justice Rajadhyaksha where he has summarised the principles in four propositions). This is recognized in actual practice in fixing a minimum amount of dearness allowance even where a flat rate on a percentage basis with or without slabs is prescribed as the normal scale. There is also the question whether the rates of dearness allowance should not be progressively decreased as incomes increase, by providing for smaller percentages with or without slabs. Where the upper limit of incomes is considerable and there is a wide range between the lower and the upper limits, such a system will be necessary and proper. We are however concerned only with the case of workmen whose maximum basic salary is not so very high as in the case of officers. We think therefore that it is not necessary to have a complicated structure by providing for varying percentages on basic pay according to the income groups. The scales of pay proposed by banks also adopt a similar course.

151. We accordingly award the following rates of dearness allowance for the various groups of banks and areas as per our classification:—

(a) Clerical staff

Bank	Area	Rate	Minimum Maximum	
			Rs. p.m.	Rs. p.m.
A, B, C & D	I	33-1/3% of pay .	35	70
A, B, C & D	II	33-1/3 % of pay .	30	60
A, B, C & D	III	33-1/3% of pay .	25	40

(b) Subordinate staff.

Bank	Area I		Area II	Area III
A	Rs. 35 flat p.m.		Rs. 30 flat p.m.	Rs. 25 flat p.m.
B	Rs. 25 "		Rs. 22-8-0 "	Rs. 20 "
C	Rs. 15 "		Rs. 12 "	Rs. 10 "
D	Rs. 13 "		Rs. 12 "	Rs. 10 "

Pay means the aggregate of basic pay, special allowance and officiating allowance, if any.

152. Another important matter which requires consideration is whether it is possible to make a provision for automatic adjustment of the rates of dearness allowance according to the variations in the cost of living at least for the future. It is undoubtedly desirable to do so if a reasonable formula can be arrived at. The difficulty so far has been the absence of an All India cost of living index. No doubt, it is to some extent anomalous to rely exclusively on such an index which can only be an average All India index with reference to indices of several places in this huge sub-continent. But on the whole, and to have an uniform rate as far as possible, it is not unreasonable to link the future dearness allowance with such an index. We have been informed that quite recently the Labour Bureau of the Ministry of Labour of the Government of India has decided to prepare and publish an All India average working class cost of living index number. In the Indian Labour Gazette, Volume X, Number 6 of December 1952

this scheme is set out in full. As there is no similar cost of living index number of the middle class we have got only to rely on the working class cost of living index both for subordinates and for the clerical staff. Appendix B in that article shows that with base 1944=100 the average cost of living index for the years 1945 to 1951 is as follows:—

1945	...	...	100
1946	...	...	108
1947	...	...	120
1948	...	..	134
1949	...	...	138
1950	...	...	130
1951	...	..	144

Taking the average index figure for 1951 which is 144 we think the future rate of dearness allowance i.e. the rate for future half years commencing from July 1953 to December 1953 onwards may be linked to the rise or fall in this figure. We direct accordingly that if the average figure for each half year i.e. from January to June and from July to December of each calendar year should rise or fall by more than 10 points over 144 the dearness allowance for the succeeding half year should rise or fall by 7½ per cent. of the basic pay. The figure officially published in the Indian Labour Gazette will be taken as the correct index for calculating dearness allowance. We think that these figures for a half year will be available in the first three or four months of the succeeding half year, and therefore any adjustment which has to be made should be made by the bank during the course of such succeeding half year.

SECTION II—Dearness allowance to pensioners

153. One portion of item 2 of the dispute referred to us is "dearness allowance to pensioners". There are only about 10 banks which give pension to their employees on retirement. The Imperial Bank of India and some of the Exchange Banks have got pension schemes. We are not directing the institution of a pension scheme for banks which have at present no such scheme. The question therefore is confined only to the pensioners of the ten banks which have such schemes at present. Two objections have been raised in answer to the demands (1) that pensioners are not workmen within the meaning of the Industrial Disputes Act and there can be no valid industrial dispute regarding the question of dearness allowance payable to pensioners, and (2) even on the merits there is no justification for adding dearness allowance to the pension. As regards the first contention the recent decision of the Full Bench of the Labour Appellate Tribunal reported in 1952 (1) L.L.J. 782 has defined the scope of the expression "any person" in Section 2(k) of the Industrial Disputes Act which defines what an "industrial dispute" is. Even so, such of the employees as on the day of retirement were or will be workmen will come within the said expression, at any rate in cases where the retirement was after the commencement of the dispute, which for this purpose should be taken as at least 13th June 1949, if not some time earlier. So there can be an industrial dispute in relation to those persons. The more important question however is whether on principle a claim for dearness allowance can be recognized in the case of pensioners. It is true that the Central Pay Commission made such a recommendation, though on a very modest scale, in the case of Government pensioners. The Sen Award also directed dearness allowance to pensioners (see page 121 of their Award).

154. Mr. Lawrie for the Imperial Bank of India contended that a distinction should be made between the case of existing employees whose wages must have relation to the current price level and pensioners who had retired and whose pension amounts should not in justice be correlated in any sense whatever to the rise in the cost of living in the years subsequent to their retirement when they are no longer rendering any service to the bank. We think on principle this distinction ought to be recognized as a sound one. We are aware that the concept of social justice can be very elastic and can take in new circumstances. But at the same time it must be recognized that an indefinite expansion along undefined lines cannot be justified on grounds of "social justice" where it cannot be rested on acceptable principles. We do not therefore recognize this claim for dearness allowance in the case of pensioners. It is a different matter if the banks recognizing the difficulties of the times voluntarily extend a measure of help in such cases as well. The Imperial Bank of India has stated that it is giving, but purely as a matter of grace, 25 per cent allowance subject to a minimum of Rs. 20 p.m. from its general profits and not from its pension fund. We

do not think it right to give a compulsory direction for payment of dearness allowance to pensioners. No such question arises with reference to persons who merely get gratuity instead of pension. Such of the bank employees as are fortunate to get pensions instead of gratuities cannot legitimately complain if dearness allowance is not compulsorily awarded. It must be remembered that they have freedom to engage themselves in other occupations. In a subsequent portion of our award we are providing that previous consent of the banks will not be required for such employment.

SECTION III—Absorption of dearness allowance in basic wage

155. Another portion of item 2 of the reference is as follows: "Can a portion of the dearness allowance be transferred to, and absorbed in the basic wage? In particular, can this be done in the case of United Provinces in respect of allowances payable at the commencement of Shri B. B. Singh's Award?" The former part of this has been already answered by us. With reference to the latter portion we are of the opinion that it is not now necessary or desirable to disturb the implementation of B. B. Singh's Award by altering the provisions thereof in the above matter. The original award of B. B. Singh was modified to some extent by the interim award of the Sen Tribunal and also by their final award. Even after the Sen Award was declared void by the Supreme Court, its pay scale and dearness allowances have been frozen by the Industrial Disputes (Amendment and Temporary Provisions) Act 1951. We do not think that it would be desirable to go back and re-open and disturb what has happened during these several years. Our present award will govern the matter and where it provides for retrospective effect, to that extent only, the employees will have the benefit of the award. No further directions therefore need be given with respect to this part of the question referred to us.

CHAPTER IX

Item No. 3: House Rent Allowance

156. Item 3 in schedule II to the reference reads as follows:—

"House rent allowance. If this allowance is payable, should it be paid to all workmen?"

157. The demand for house rent allowance appears in almost all statements of claim received by us. A typical demand is that of the All India Bank Employees' Association which has claimed house allowance at the rate of 15% of basic pay subject to a minimum of Rs. 20 per mensem in cities having a population of 10 lakhs and over and Rs. 15 per mensem for other cities.

158. The question of house rent allowance is really an item to be taken into account in fixing the wage scale. Normally it will be included in calculating the cost of living, but there are big cities in the country where housing accommodation is scarce and rents are normally high notwithstanding the Rent Restriction Acts which are in force. It is necessary, therefore, to consider these special cases and provide for a house rent allowance. While we framed our wage scale, we took into consideration the normal house rent payable where there are no such exceptional circumstances as set out above. We therefore think it right to provide for these specially expensive places. In our opinion, this allowance should be given to bank employees in all big cities where the population exceeds 7 lakhs as per the 1951 census. These places are: Calcutta, Bombay, Madras, Delhi, Hyderabad (including Secunderabad), Ahmedabad, Bangalore and Kanpur. For Calcutta and Bombay, however, a higher rate of allowance is needed than for the other places in this group. We accordingly direct that house rent allowance should be given monthly to all whole-time workmen on the following scale:—

	Calcutta and Bombay	Other places with population over 7 lakhs.
(a) Where pay does not exceed Rs. 100 per month	Rs. 8	Rs. 6
(b) Where pay exceeds Rs. 100 but not Rs. 200 per month	Rs. 12	Rs. 9
(c) Where pay exceeds Rs. 200 per month	Rs. 16	Rs. 12

NOTE:—"Pay" includes basic pay, special allowance and officiating allowance.

159. Certain banks have been providing free accommodation to some of the employees, especially of the subordinate cadre, some of whom have been allowed

to sleep on the bank's premises. Such concessions or amenities which are voluntarily granted by the banks should not be taken as conferring a right on the workmen. This amenity also serves as a kind of arrangement for the safety of the premises and the property of the banks. We think that even where such amenities are given, the house rent allowance also must be given as the employees must have facilities for housing their families at the places of their employment. We direct accordingly.

160. No house rent allowance shall be admissible where residential quarters are provided and made available by the Bank. The allowance must be given during leave period also, provided that the duration of the leave does not exceed four months and prior to availing himself of leave the workman furnishes a certificate that he continues to retain the residential accommodation occupied by him. Where the leave taken exceeds four months, house rent allowance may cease at the banks' discretion after the period of four months is over.

CHAPTER

Special Allowances.

161. We have laid down the scales of basic pay and dearness allowance for clerical and subordinate staffs doing ordinary duties as such. There are, however, certain posts even in these grades for which an incumbent requires special qualifications or skill for the efficient discharge of his duties. An extra payment in such cases is necessary by way of recognition of and compensation for this special skill or responsibility. The demands before us for such extra payments (which may conveniently be designated as 'special allowances') vary not only with reference to the amounts claimed but also with reference to the nature of clerical and subordinate work now performed by employees under various designations. The demands are by no means uniform. Having regard to the numerous banks of varying sizes and resources it is not possible to have one general pattern of allowances for such special types of work. We find that from bank to bank there is a wide diversity even in existing practice. It is neither easy nor desirable to bring them all into one fairly general rule regardless of the bank's past practice or present capacity. Previous awards also have not spoken with one voice in this matter. Shri B. B. Singh put cashiers and money testers in the same scale as clerks. He also provided special scales for head clerks, supervisors and departmental-in-charges. Mr. Gupta gave special allowances to stenographers. Head cashiers were placed by him in the senior clerical grade. Mr. S. K. Sen's award in respect of the branches of the Central Bank of India at Calcutta laid down a special scale for supervisors and gave a special allowance for stenographers. Justice Divatia's Bombay award also accepted the principle of recognizing such special skill or responsibility. It left the matter however to be guided by the laws of supply and demand within the scales fixed for ordinary workmen.

162. We think it is but right that persons with special qualifications or skill required for discharging work carrying with it greater responsibility than routine work should definitely have higher emoluments than an ordinary workman. There are three ways by which this extra payment may be provided for: (1) The employee may be given additional increments in the same scale. (2) He may be paid a lump sum allowance in addition to his other emoluments. This has the advantage of carrying a man even beyond the usual maximum limit. (3) He may be given a higher scale leading up to a higher maximum. We are of opinion that it is on the whole better to adopt either the first or the second method or sometime even a combination of both. Elsewhere in our award we have provided only for one general scale for clerical service because the workmen opposed the idea of more than one scale. While the banks preferred two scales they had however no objection to one scale. Though primarily our inclination was to provide a different and higher scale, we have considered it simpler on the whole to solve the problem by providing for a lump sum allowance called 'special allowance' in each of such cases where we consider it is called for, except in the case of graduates and banking diploma holders for whom we give a certain number of additional increments. It should however be distinctly understood that what we have provided is only a minimum, and in the case of big banks and particularly in their important offices it may be proper and desirable that the incumbents of such offices should be allowed more than what we have prescribed. It may be that what we have prescribed as a minimum is less than what some big banks are at present giving and have thought it proper to give for such incumbents in some of their more important offices; but it is not feasible to provide for diverse conditions obtaining in various branches of banks where the volume of work differs to a considerable extent.

163. In this connection we may reiterate what we have said elsewhere that even our scales of basic pay are what we consider as the minimum. It is perfectly open to the banks to give more, and indeed in some cases it is but right that they should do so. Similarly, even with reference to special allowances which we fix, an increase will be justified in certain cases of special posts in certain branches. With these observations we shall now proceed to enumerate the categories for which special allowances should in our opinion be given. Here again it may be open to the banks to provide for such allowances even in respect of categories which are not included in our list wherever owing to previous practice or for other good reasons they think it right and proper to do so.

164. The following categories of employees deserve to be specially considered as fit for special allowances:

Graduates,
 Holders of banking diplomas like C.A.I.B. and C.A.I.B.,
 Comptists,
 Stenographers,
 Cashiers, (other than routine clerks),
 Supervisors,
 Sub-Accountants,
 Clerks-in-charge,
 Departmental-in-charges,
 Head Clerks.

(a) In respect of graduates and holders of banking diplomas like C.A.I.B. and C.A.I.B. it is in our opinion sufficient to give them two additional increments in the basic scales of pay for graduation, and one increment for completing Part I of the examination for the diploma and another for completing Part II of the diploma examination. A person who has both the qualifications can claim the benefit of both sets of increments. The justification for this is the better and more efficient service which the banks will obtain from such qualified persons. This is recognized by the banks in their existing practice though the extent of recognition in the matter of emoluments varies.

(b) For other categories of employees, we prefer to provide by giving lump allowances (minimum) in addition to their basic pay. These classes of persons are set out in the following list and the amounts payable to them by the respective groups of banks are stated in their appropriate columns. We have made no distinction with reference to areas. We think the same is unnecessary. We are not providing for a special allowance for typists. They should form part of regular clerical grade. A typist clerk should not for ever be a typist. His knowledge of typing will be an additional qualification for recruitment and promotion.

Categories of employees	Class of Banks			
	A Rs.	B Rs.	C Rs.	D Rs.
1. Comptists	10	10	10	10
2. Head Clerks and Stenographers	20	20	15	10
3. Head Cashiers : Units of 5 clerks and above	20	15	10	8
4. Head Cashiers : Units of 4 clerks and below	15	11	8	6
5. Assistant Cashiers (above the level of routine clerks). Units of 5 clerks and above.	16	14	9	7
6. Assistant Cashiers (above the level of routine clerks). Units of 4 clerks and below	12	10	7	5
7. Cashiers in charge of cash in pay offices	15	15	12	10
8. Cashiers in charge of cash in Treasury pay offices, employees in charge of pay offices or sub-offices	25	25	20	15
9. Supervisors, Superintendents, sub-accountants, departmental-in-charges, employees in charge of of treasury pay offices	50	45	40	31

NOTE:—In case where an employee comes within more than one category he should be entitled to the highest rate applicable to him.

165. With regard to some of these categories it has been a matter of acute controversy before us whether they fall within the class of persons coming under the definition of the term 'workman'. In some banks, and particularly in major offices they will be officers and not workmen. We shall deal with this question elsewhere in relation to another item of dispute. What we are now providing must be understood as the allowances applicable to incumbents of such of these posts where they are "workmen". In cases where they should properly be regarded as officers, these directions will not of course apply. We believe such employees will not really suffer for the reason that ordinarily we expect the banks to give them more as officers (and certainly not less) than what we have provided as minimum in the case of incumbents deemed to be only workmen.

166. In the case of the Imperial Bank of India the question relating to head-cashiers and sub-accountants is not being decided by us for reasons which would be given later. Their cases will be governed by the directions given in the appropriate place. Our special allowances however will no doubt be kept in view by the concerned parties. We have gone through the list of various designations for whom special allowances have been asked for in the various demands submitted by the different unions. We consider that the categories we have set out above are entitled to special allowances and with regard to others we do not think any compulsory directions need be given. It will be for the banks if they are so pleased to consider the matter in such cases.

167. The case of accountants should be referred to specially. In several cases they will indisputably be officers. It is difficult to lay down a hard and fast rule in respect of them. An accountant oftentimes is the second officer in charge of branches, particularly where the branches are comparatively small. In big banks where there is a hierarchy of officers there may be a chief accountant, accountants and sub-accountants. In most of those cases the "accountants" will probably be officers. There will however be incumbents of such posts, though going under the dignified designation of accountants who are in reality only senior clerks doing higher type of clerical work involving an element of supervision over other clerks as part of their duties. In such cases where they can properly be regarded as workmen the minimum allowances which we have fixed for sub-accountants would equally apply to them.

168. We must also make mention of certain categories described by such terms as junior assistants and senior assistants and classified by some banks as officers. The terms do not by themselves indicate the nature of the work entrusted to them. Irrespective of their designation, in so far as their work falls under clerical work, though of a higher type, as explained by us in our discussion relating to categories of workmen in our award in a later chapter, they must also be entitled to the scales of pay, minimum special allowance etc. which we have prescribed for the appropriate kind of work during such periods as they are in charge of that kind of work. It is not possible to give a more precise or detailed direction in this matter. We trust that the banks will act in the true spirit of these directions.

169. We shall now turn to the subordinate staff. In this cadre there are not only ordinary peons and chowkidars but quite a number of employees under different designations such as daftries, assistant daftries, jamadars, guards, sentries, godown coolies, godown peons, farrashes, watermen, call boys, bearers, durwans, head peons, cycle peons, messengers, watchmen, gunners, cleaners, water boys, bhists, malis; garden coolies, sweepers; sepoys, hamals; khansamas, food store salemens, compositors, deputy head messengers, lorry drivers and so on. Demands have been made for special allowances with respect to any of these persons. We lay down the following scales as minimum special allowances for certain categories of the subordinate staff. The general observations which we have made in the case of clerical staff would ordinarily apply to these persons also.

Categories of employees

Class of Banks.

	A. Rs.	B. Rs.	C. Rs.	D. Rs.
Head cash mazdoors (coolies)	5	4	3	2-8-0
Watchmen, chowkidars or cash durwans	5	4	3	3
Armed guards	10	9	8	7
Daftries	10	9	8	7
Havaldars, jamadars, dafadars, nalks and head peons	15	12	10	8
Drivers and head messengers	30	25	20	18

CHAPTER XI

Item No. 4: Other allowances

170. Item 4 in schedule II to the reference reads as follows:—

"Other allowances (other than travelling allowance, conveyance allowance and halting allowance) payable, for example, education or children's allowance, washing allowance, hill allowance, fuel allowance, grain allowance, Poona Cantonment allowance, officiating allowance, scarcity allowance, border allowance, local allowance and six-monthly accounting allowance".

171. Under items No. 2, 3, 4 and 28 in the reference before us a large number of allowances are claimed. Apart from these, "special" allowances for specialized types of work are also claimed. In giving an award on the demands for these allowances we are constrained to estimate their over-all effect on banking costs. The legitimate demands of the workmen can be satisfied only in so far as the banks have the capacity to pay. The construction of a pay scale naturally takes into account the living costs of the workmen and except where there are special considerations applying to a particular category of workman the pay scale must be deemed to cover all the just needs of the workmen. Even so we may consider the demands for allowances in item 4 one by one.

172. **Education or children's allowance.**—The All India Bank Employees' Association's demand is typical of what is claimed by workmen in general. The demand is that all employees shall be entitled to a children's allowance of Rs. 10 per month for every dependent child with a maximum of Rs. 30. The payment of such an allowance to their workmen by the Reserve Bank of India and by the Exchange Banks in the case of officers, was cited before us. The authority of the Central Pay Commission was also invoked. They however were impressed by the fact that Government employees were subject to frequent transfers and to being posted to places where school facilities are lacking and so recommended a subsidy towards tuition fees in the case of the children of employees below a salary limit of Rs. 100.* We are not prepared to recommend any such allowance at the present stage of the banking industry. Under the present circumstances the employee can only look to his increasing emoluments to cope with his family's responsibilities. The demand for education or children's allowance is therefore disallowed.

173. **Washing allowance.**—It is an allowance claimed to meet the cost of washing uniforms or clothes provided for the members of the subordinate staff. The workmen demand that the banks should undertake the responsibility of getting the uniforms washed and where it is not possible to do so a washing allowance should be given. We agree and fix a monthly allowance of Rs. 2 in Class I area, Rs. 1½ in Class II area and Re. 1 in Class III area.

174. **Hill allowance.**—To meet the higher cost of living at hill stations an allowance is being paid at present by certain banks. The demand is to add to the number of hill stations and also to raise the rate of allowance. The Imperial Bank of India gives for most hill stations 10 per cent. of salary for subordinate staff and 10 per cent. of salary with a maximum of Rs. 9 per month and a minimum of Rs. 4-8-0 per month for clerical staff. The All India Bank Employees' Association demand is for an allowance at the rate of 10 per cent. of the basic pay with a minimum of Rs. 20. We direct that for hill stations or towns with a height of 4,000 ft. above sea level 8½ per cent. of the pay subject to a minimum of Rs. 6 per month and for hill stations or towns above 5,500 ft. 12½ per cent. of the pay subject to a minimum of Rs. 10 per month, shall be paid to all employees by way of hill allowance.

175. **Fuel allowance.**—There is a demand from All India Bank Employees' Association for fuel allowance at hill stations at the rate of Rs. 10 per month during the months of November to March. The Imperial Bank of India Union (Madras Circle) has asked for 20 per cent. of the pay with a minimum of Rs. 15 for subordinate staff and Rs. 20 for others. In pre-Sen Award days the Imperial Bank gave fuel allowance during winter months at the following rates: Rs. 8 per month for clerks and Rs. 4 per month for subordinates. The allowance is intended to cover the increased cost of fuel during the cold weather. We direct the payment of a fuel allowance on the same basis and at the same rate as the hill allowance subject however to a maximum of Rs. 20 per month for the five months, November to March.

176. **Grain allowance.**—The All India Bank Employees' Association and the Imperial Bank of India Unions and the Exchange Bank Unions made no demand

*Report of the Central Pay Commission, page 52.

for grain allowance. Two of the Exchange Banks did give grain allowance at one time but they abolished it. As there is no claim before us in respect of this allowance, we give no directions.

177. Poona Cantonment allowance.—The allowance was paid in wartime conditions by the Imperial Bank of India to its employees working in the cantonment area as compensation for the extra duties necessitated by wartime expansion and as an inducement to the Bank's employees there to remain with the Bank. Mr. Phadke stated before us that the demand was withdrawn. Therefore no direction from us is necessary.

178. Officiating allowance.—It is claimed in respect of an employee officiating in a post carrying a higher salary than his own. The workmen have demanded that when an employee acts in a higher post he shall be paid an officiating allowance calculated at the rate of 20 per cent. of his own pay, if his pay is higher or the difference between his pay and that of the higher post whichever is greater. The Imperial Bank of India, for example, pays an officiating allowance to employees at a fixed rate per month depending on the nature of the work. The bank submits that what it gives is adequate and that the valuable experience gained by an employee in a superior post qualifies him for promotion in future. It is but proper to pay additional remuneration for work in a higher post. We however think it necessary to set a time limit for the calculation of the allowance in the manner that the bank counsel urged. We direct that where a workman officiates for a period longer than 15 days he shall be paid an allowance calculated at the rate of 20 per cent. of his own basic pay or 50 per cent. of the difference between his basic pay and that of the person for whom he acts, whichever is lower.

179. Scarcity allowance.—Presumably as the name itself shows it was given at certain places where scarcity conditions prevailed. There was no regular demand before us. All that we could elicit was that the Central Bank of India was paying an allowance in certain areas where there was water scarcity and it was prepared to continue the practice. No specific directions are called for.

180. Border allowance.—The demand is that every employee shall be given a border allowance at the rate of 10 per cent. of the basic pay with a minimum of Rs. 10 for the hardship and risk incidental to service near the borders of the country. It is not possible to determine those border places or to estimate what is vaguely described as risks and hardships which are common to all the inhabitants of the frontier tracts. We disallow the demand.

181. Out-of-station allowance.—The demand is that an out-of-station allowance should be paid when employees are transferred as ways of living and conditions differ widely from place to place. We are unable to see the necessity for such an allowance. The demand is rejected.

182. Local allowance.—The allowance is intended to compensate the high cost of living in certain areas. In our award areawise differentiation in pay and allowances including the dearness allowance has taken into account local differences. Besides we have given a house rent allowance to cover the extra cost of accommodation in certain places. No further directions are necessary.

183. Six-monthly accounting allowance.—The workmen have demanded that as the six-monthly accounting falls on holidays the employees should be paid extra for the entire work put in. The two holidays on balancing days viz. the 30th June and 31st December are declared holidays under the Negotiable Instruments Act for the specific purpose of allowing the banks to make arrangements for their half-yearly closing. The banks represented that it meant no special or extra work. In lieu of the day to day work the clerks are required to attend to the six-monthly accounts. Even so only a few members of the staff of certain departments are required for the purpose. No case has been made out by the workmen for any special allowance. Overtime on those days, if any, will be paid at the rates and under conditions prescribed by us.

CHAPTER XII

General Considerations

SECTION I—Arguments on Pay Scales and Dearness Allowance

184. The Sen Tribunal devised an elaborate structure of Scales of Pay for three classes of banks according to the size of their working funds and three classes of areas according to the cost of living. There was one set of scales for clerks and another set for subordinates. To the scales of pay were attached Dearness Allowance, special allowance, other allowances, bonus and the various retirement benefits.

The scales of pay in fact were to be considered in relation to the entire corpus of emoluments. The pay assumes importance because every other payment is, one way or another, adjusted to it. A high pay scale may go with a low scale of subsidiary benefits or *vice versa*.

185. As the first stage of their construction the Sen Tribunal took a 'C' class bank (working funds below 7.5 crores) in Class 1 area (consisting of Bombay, Calcutta and Delhi) and studied the requirements of a clerk supposed to be drawn from the middle class. They took Mr. Subramaniam's investigation into budgets of middle class employees of the Central Government for the period November 1945 to August 1946 as an authoritative piece of research furnishing all the requisite data relating to size of the family, variations in cost of living as between different areas, balancing of domestic budgets, indebtedness of families, average monthly concessions, income from different sources and expenditure on different items. On the strength of the statistics in the Subramanian Report they fixed 2.25 consumption units as representing the clerk's needs; they estimated the value of each consumption unit at Rs. 40 and they put the minimum starting pay at Rs. 90. Again basing themselves on the Subramanian Report they worked out the average of the consumption units for Class 'A' area cities and allowed 4 consumption units at the 25th year of service. They next proceeded to choose a base year and considered 1944 as the most suitable because the Central Government published cost of living index series (the Deshpande series) for 15 towns in different parts of India with 1944 as the base year. The minimum basic pay of Rs. 90 for 1946 was converted into its equivalent for 1944 i.e. Rs. 86.

186. The Sen Tribunal did not keep up the elaborate and intricate process for the rest of the pay-scales construction. For Class II area of the 'C' Class banks they took a representative section made up of four towns (Sholapur, Kanpur, Nagpur and Jamshedpur), studied the monthly expenditure per consumption unit in an average family in the income group below Rs. 100, made an allowance for the money value of concessions and arrived at Rs. 77 for 2.25 consumption units in 1946. Converted to the base period of 1944 by the same method as before the starting salary was fixed at Rs. 73.

187. The process was furthermore simplified for Class III areas. To quote from para 81 of their Award, "They comprise very large tracts and we think that similar calculations are not likely to yield satisfactory results. We are of opinion that for such areas the minimum of Rs. 65 per month may be taken to represent the requirement of a clerk in such areas for the year 1946". They reduce the 1946 figure of Rs. 65 by about 5 per cent. and thus arrive at Rs. 62 as the starting figure for 1944.

188. Taking these figures for 'C' class banks in the three areas as the foundation they work up the scales for 'A' and 'B' class banks in each of the areas, making use of certain concepts as 25 years of service, 4 consumption units in the 25th year, the difference of Rs. 10 between the highest and the lowest scale of pay in respect of 'A' class and 'C' class banks as fixed by Mr. Justice Divatia and the relative income groups into which employees fall at various ages as shown in the Subramanian investigation.

189. The approach of the Sen Tribunal to the question of pay scales and the methods developed by them came under severe attack both at the hands of the banks and the workmen. The banks subjected the whole scheme to a very critical examination and pleaded for its rejection *in toto* as well as in individual parts. The workmen on the whole were disposed to accept the main approach as just and reasonable under the circumstances though they felt that in respect of the number of consumption units, the method of linking dearness allowance to the cost of living index numbers, the co-efficient to be added to the working class standard in order to obtain the middle class standard and the selection of income groups from the Subramanian Report there were serious inadequacies. We have considered all these arguments and we have come to the conclusion that despite the great weight of authority that the Sen Tribunal directions carry we should devise a more direct approach, a simpler method, a more acceptable technique, keeping clear of all data which is not statistically established beyond doubt and keeping also in mind the Labour Appellate decision on the Subramanian Report and cognate matters. On the whole there was but little in the directions of the Sen Tribunal regarding the scales of pay on which there seemed to be substantial agreement between the parties that appeared before us.

190. In 1945 the Office of the Economic Adviser to the Government of India was authorised to undertake an enquiry into the income and expenditure of families of middle class Central Government employees. The cost-of-living studies were up till then confined only to the working class. It was time there was some reliable data

regarding a large class of workers obviously drawn from middle strata of society and employed in large numbers in Government departments, Central or Provincial. The population in question being literate and of a fairly high intellectual attainment it was felt that full co-operation from them would be forthcoming and a direct approach would yield quick and satisfactory results. The income limits fixed however were such that the term middle class could hardly be applied to them and the bulk of the employees were actually found to be in the lower brackets. The range of income covered was Rs. 30 at one end and Rs. 500 at the other. The size of the average family was the smallest in Bombay City with 5.3 persons, and the largest in Bihar and Orissa with 7.4 persons. On the Lusk scale the number of consumption units per earner in the 4 cities and the 7 regional blocks into which the country was divided was of this order: 3.3, 4.0, 4.4, 4.0, 4.6, 4.8, 5.0, 4.1, 3.5, 4.6 and 4.0. The chief conclusions that flowed from the inquiry were that income and expenditure were in disequilibrium everywhere, the deficit varying from Rs. 15-7-0 per family or Rs. 3-8-0 per consumption unit in Delhi city to Rs. 51-5-0 per family or Rs. 10-2-0 per consumption unit in Bombay city; that a very large proportion of the families were involved in debt, the percentage varying from 37 in the Punjab to 75 in Calcutta. In the circular letter to the selected employees the Economic Adviser stated, "I would emphasize in addition that this inquiry has been undertaken primarily with a view to enabling Government to help their employees by providing adequate relief to them as and when necessary".* Mr. S. Subramanian, the Statistician to the Government of India was in charge of the inquiry and the report is frequently referred to as the Subramanian Report.

191. The Government of India impressed with the need for properly constructed Index Numbers for Cost of Living for the working class brought into operation a scheme for the collection of family budgets which would serve as the basis for the compilation of such indices. Shri S. R. Deshpande was placed in charge of the scheme.† He collected over 27,000 budgets from the various parts of India. The Provincial Governments co-operated with him in the arduous task. Most of the investigations were carried out during the year 1944-45. Uniform methods for the collection of budgets and tabulation of the data with minor variations to suit local conditions have been followed. Special attention was paid to data relating to the size and composition of the families. As a result of these labours we have now a series of working class cost-of-living index numbers for different areas in the country. Fourteen of the series are now published in the Indian Labour Gazette by the Ministry of Labour. The consumption units per family in the 21 towns and cities investigated work out as follows:—3.43, 4.00, 4.08, 4.85, 3.58, 2.95, 5.48, 3.43, 3.15, 4.51, 4.36, 4.10, 3.29, 4.57, 4.60, 3.60, 3.91, 4.70, 3.34, 3.12, 3.99.

192. In the assignment of consumption units to the bank clerk at the various stages of his career there seemed to be a considerable amount of difference of opinion. The Sen Tribunal awarded 2.25 consumption units in the first year, 3 consumption units in the eighth year and 4 consumption units in the twenty-fifth year. The Sen Tribunal however in the actual construction of pay scales did not adopt the three consumption units for the eighth year as it failed "to conform to the requirements of a normal scale, at least in the case of middle class employees, circumstanced as they are today." The assumption that the clerk would marry and have one wife and two children in the eighth year of service was given up. But the idea persisted that a bank workman married early and raised a family of several consumption units which should figure in wage determination. In the arguments before us the whole theory of consumption units was subjected to a critical examination and the Subramanian Inquiry which appeared to have discovered a statistical proof for the theory became the target of severe attack. The banks adduced evidence to show that though marriage and children were the normal fate of clerks as well as others the eighth year was by no means the universal age at which they shed their state of single blessedness. The Bank of Baroda filed statements (Exhibits B 190 and 191) showing the age of clerks and their civil condition. At the age of 24, 25 or 26 which for most people will be about the eighth year of service we find that 16 out of 17, 14 out of 18 and 8 out of 11 were unmarried. In fact out of 156 clerks of all ages from 18 to 58 years as many as 98 were unmarried. In the case of subordinates 25 out of 78 were unmarried.

193. The Central Bank of India in its statement (Exhibit B. 72) showed, round about the eighth year of service, at the age of 24 out of 39 clerks the unmarried

*Report on Enquiry into the Family Budgets of Middle Class Employees of the Central Government, 1948. page 32.

†Reports on Family Budgets of Industrial Workers in Bombay, Calcutta, Delhi, Ahmedabad etc., by S. R. Deshpande, Director, Cost of Living Index Scheme.

were 30 in number, at the age of 25 the corresponding figures were 40 and 53, at the age of 26 the figures were 24 and 38. In all the age groups from 18 years to 57 years there were 560 clerks out of whom 369 were unmarried.

194. The Bank of India in its statements (Exhibit B. 66 and B 66A) by means of sample slips from the Census of India, 1941 attempted further to disprove the theory of what is said to happen to a clerk round and about the eighth year of service.

CENSUS OF INDIA—1941

III—BOMBAY

(Taking every thirtieth slip for Bombay City and every fiftieth slip for other districts.)

Page 127 <i>et seq.</i> Place	Age	Married		Unmarried	
		Males	Females	Males	Females
Province	15—20	5,365	14,748	13,672	3,336
	20—25	12,897	19,123	8,220	984
	25—30	17,447	18,124	3,830	425
Bombay City	15—20	484	1,130	2,305	537
	20—25	1,956	2,016	2,333	318
	25—30	3,447	2,082	1,388	158

CENSUS OF INDIA—1941

IV—BENGAL

(Taking every 50th slip)

Page 110 <i>et seq.</i> Place	Age	Married		Unmarried	
		Males	Females	Males	Females
Province	15—20	10,658	44,275	45,207	8,581
	20—25	31,607	54,188	24,076	1,208
	25—30	45,707	47,950	9,547	509
	30—35	47,941	35,376	2,855	303
Calcutta	15—20	640	789	2,121	543
	20—30	5,096	2,273	3,245	194
	30—40	5,536	1,438	549	45

195. Mr. Chari stated that the question of a minimum wage turned upon the size of the family. The size varied according to the social and economic conditions prevailing in different countries. Families were divided into natural and joint. In India the joint family with a large number of dependents prevailed, at any rate, amongst the Hindus. He thought that the principle of 3 consumption units originally introduced by Divatia J. in the Bombay Textile Labour Inquiry Committee and confirmed again and again by various awards and also accepted by the Sen Tribunal and the Central Pay Commission should be rooted out of the industrial law of the country, as not being appropriate to the actual conditions of India. The Subramanian Report on middle class employees of the Central Government revealed an average family of 5.6 consumption units including dependents who lived away from the employee. The Diet and Health Survey of Middle Class Families by the Indian Statistical Institute disclosed 5.2 consumption units for the average family in the city of Bombay. The figures in the Subramanian Report based as it is on the average of 11 cities and regions throughout India may be taken as a fairly accurate estimate of the size of middle class family, and bank employees coming as they do from the middle class should be remunerated at 5.6 consumption units. At the recruitment stage however the employee is likely to be a single person without wife and children but not without dependents of some sort or other and thus "Mr. Chari would be content with 3.6 consumption units". Mr. Chari said, 'Taking 3.6 consumption units for a clerk at the start, consolidation at 250 points of the cost of living index, the minimum starting pay should be Rs. 150.'

196. Mr. Phadke said that there should be no uniform figure for a standard family in all areas and in all classes of society but he was prepared to rely on the data so systematically compiled by Mr. Subramanian for the clerks and by Mr. Deshpande for the factory workers. He considered 4 consumption units as representative of the average or standard family in the population made up of bank clerks and subordinates. He was at a loss to know why the Sen Tribunal hit upon 3 consumption units when the average of the three places selected by them for the purpose came to as much as 4.23 consumption units.

197. Mr. Dudhia urged in his turn the case for raising the number of consumption units from the level at which it was fixed by the Sen Tribunal and also for making the revised figure available at the very commencement of the workman's career and not from the 7th or 8th year of service when he is supposed to have acquired a family consisting of a wife and two children. Three consumption units in the eighth year of service has now become part of industrial law but there is no warrant for it in enquiries conducted by Shri Subramanian and Shri Deshpande.

198. Mr. Seervai subjected the Subramanian Report to a very critical examination and urged that the results of the inquiry cannot be depended upon and must be rejected totally. In any event, he said, statistical reasoning is based on the theory of probability and chance and a merely theoretical calculation of these elements cannot be relied upon without actual verification to give correct results. In fact the conclusions of Mr. Subramanian's statistical inquiry have not been checked by any external tests, namely, by comparing them with facts independently known.

199. Mr. Subramanian's method was open to attack on the following grounds. The category of middle class employees was not strictly defined. Persons with as low a basic salary as Rs. 30 per month asked to be included and were included while the upper limit of the income range was fixed as Rs. 500 per month. A sample method was decided upon but it is not clear how the number 71,208 is arrived at though the total number of the middle class employees was said to be of the order of several hundred thousands. For the actual submission of quarterly budgets 5,086 employees were selected, that is 7.14% of the "population" of 71,208. The number of budgets actually received for all the four quarters was 1,007. It will be seen that the sample is no longer 7.16% of the population but only 1.41% of the population or roughly only 1/5 of the original sample. In making the survey no provision was made for non-response from so considerable a fraction of the sample. Yates in his "Sampling Methods for Censuses and Surveys" says that "unless non-response is confined to a small proportion of the whole sample, the results cannot claim any general validity." The non-response in the present inquiry was as high as 80% and the conclusions cannot be relied upon. The result of the non-response is that it led to a serious "bias". Partly because in the general instructions the employees were assured that the survey was for their benefit and partly because the returns would be made by only those employees who were interested in the object of the survey, namely the benefit they expected to derive from it, there was a continuing bias vitiating the results. Families with surplus budgets and families with several earners earning substantial amounts would not make a return. Hence we get incorrect figures (a) of the average size of the family, (b) of the average income and (c) of the average expenditure.

200. We have doubts about the wisdom of using the report for a purpose for which it was never intended. The object was to provide a basis for Middle Class Cost of Living Indices. It is not quite safe to accept it as an accurate picture of the economic conditions and modes of living of the bank workmen.

201. Coming to the report itself the first thing to notice is that it does not tell us the number of Government employees in several income groups. We could then have ascertained whether the sample actually obtained was representation of the whole aggregate. Such internal tests as Mr. Subramanian has applied do not show whether the final sample is adequate and sufficient. The value of a sample can be tested only by comparison with independently known facts. But no such external checks were applied. We cannot get over the fact that there is a total unbalance in all the areas and in no income range do we have homogeneous results. The Government service is like a pyramid, the lowest category with the largest number at the base and the highest category with the smallest number towards the top but in the Subramanian survey the budgets do not reflect the actual pattern of distribution among the groups. The budgets for the City of Bombay, for example, show only 6 families in the lowest income group below Rs. 100 and 25 families in the income group above Rs. 300. No checks have been applied on the universal tendency to underestimate income and overestimate expenditure, a tendency liable to be exaggerated where, as in the present inquiry, a hope of relief was held out. The tendency is emphasized when it is shown that in every single class, month after month, there are large deficits in the budgets. In several income groups nearly all the budgets are unbalanced, not necessarily because of paucity of resources. A sub-conscious element of self-interest may not have been altogether absent. The Labour Appellate Tribunal's hesitation to accept that report as of great value on the points which are relevant for our present inquiry is not without justification.

202. It has to be observed that single men in Government service have been left out of account and all budgets belong to "families". Hence all figures given for the average size of the family or the average number of children cannot be taken as accurately depicting the several conditions of all middle-class employees which include both married and unmarried people.

203. To say that the report could not be solely or even largely relied upon for our purposes is no reflection on the quality of the investigation. It may be that Government for the purpose of giving relief to their servants in a time of rising prices were content with the materials, though they were not sufficiently representative. Even so the report contains a mass of valuable information and an able analysis of the same, which will be useful for several other purposes. Our observations are not intended to detract from the general merits of the survey. It is only fair to add that Mr. Subramanian himself has not been consulted or heard about the criticisms urged against the report.

204. We also heard learned arguments upon the reliability of the Indian cost of living index numbers and upon the use that the Sen Tribunal made of them in fixing dearness allowance. There appeared wide divergences in the points of view of the two parties before us.

205. The Labour Appellate Tribunal has recently endorsed the general view that the minimum wage should be fixed with reference to a "standard family" of a worker consisting of his wife and two children making in all 3 consumption units. [see *Caltex (India) Ltd. V. their employees*: 1952—2 L.L.J. 183].

206. We are obliged to Mr. Seerval for a very interesting discussion with reference to the composition of a "standard family". He conceded that the awards of the Tribunals and the generally accepted view proceed on the basis of a natural family of 3 consumption units, consisting of a worker, his wife, and two children. Nevertheless he invited us to examine whether this could be the really correct view. In an interesting argument he showed how this theory of "standard family" that originated in Australia several decades ago has become discredited even in that country. If a minimum wage is based on such a "standard family" it would really be providing for a number of "fictitious wives and unborn children". The report of the Royal Commission of Australia on fixation of wages of labour was not accepted by the Government of the day precisely for this reason. He also drew our attention to passages from the book "Wages and Family" by Paul Douglas wherein the learned author tries to show that in America if living wage was to be paid on the basis of a family of husband, wife and three children as many as 45 million fictitious wives and unborn children would have to be paid for. Our attention was drawn to pages 151, 170, 26 and 42 and tables 7, 8, 9 and 10 of that book. We should confine our attention to conditions in India. Mr. Seerval pointed out that Shri Subramanian's report did not deal with the budgets of unmarried men. Further illustrating his contentions from Shri Deshpande's Report for Calcutta he pointed out that Table VI of the Report shows that 2,707 families supplied budgets according to which there were 3,979 men, 3,492 women and 3,600 children. The inquiry also revealed that the number of single men amounted to 2,248 (page 32 of the Report). The total budgets covered 6,227 adult males. On the basis of a standard family of a man, his wife and two children, the wages payable would have been for 6,227 males, 6,227 wives and 12,454 children. This would mean that provision will have to be made for quite a large number of non-existent wives and non-existent children.

207. There is undoubtedly a good deal of force in his arguments. This aspect of the matter has to be seriously considered by industrial tribunals and other administrative bodies, when a proper wage structure is being constructed for middle class employees. It is true that the normal condition of an employee will be that of a married man with children sooner or later. Even as per Subramanian's report (see page 34) the total number of adult males is 1,780 and adult females 1,860 and of children of both sexes 2,780 in round figures. (Table 3 of each centre, page 58). The average number of children for adult males for the whole series of budgets considered by him comes to 1.56. In Subramanian's Report adult males might include persons in the age group 15 to 18. But the children in some cases may not be children of the wage earner but of other members living with him in a joint family. Shri Subramanian's report gives us the figures of the proportion of natural and joint families in the total number and roughly the ratio is 64:36 (Table VI, p. 15). The more scientific way of dealing with the question of wages would be to provide at the start for a family of two persons viz., an employee and his present or future wife and give allowances for children as and when they arrive up to a reasonable number. There is much to be said in favour of this view. It will go a great way to meet the anomalies pointed out by Mr. Seerval. The proper method seems to be to fix the salary of an employee and his

wife at the initial start and then provide by reasonable increments for the growing needs of himself and his family including children that are likely to come. Calculating as per Lusk co-efficient, the consumption units should be taken at 1.8 at the initial start. If the generally accepted view that under Indian conditions a person has in the 8th year of service a wife and two children should prevail the consumption units will come to 3. Here again, the theory that a man has a wife and two children in the 8th year is more or less an assumption presumably based on the general experience of people who have had to consider the matter and not supported by any study of statistical figures. Some statistics have been placed before us with reference to bank employees of certain banks, (no doubt taken at random). From these figures and the figures which appear in the census reports it would appear that quite an appreciable number of people remain unmarried even in the age group 25 to 30, and it is only in the group 30 to 35 that single men are rare. This would mean the 8th year that is generally taken is too early a period. It would appear that it would be more appropriate to taken the 10th year as the proper stage. It is common knowledge that the average marriage-age is now higher than before.

208. Mr. Seervai submitted that the Dearness Allowance payable to the bank employees should not be linked to the working class cost of living indices prepared for different places in India. We have no cost of living specially constructed for the middle class from which the bulk of the bank employees are supposed to come. There is a sharp gulf between the manner of living of a worker in a factory and a clerk in a bank, and indices obtained in respect of one cannot be applied to the other. The co-efficient method by which the index of the living costs of the working class can be made applicable to the middle class is arbitrary, has no statistical warrant any yields no reliable results. Mr. Seervai attacked the very purpose and manner of constructing the cost of living indices in India and tried to expose the many infirmities to which they were subject. His arguments carry great deal of conviction in the context of the inquiry on hand.

209. An index number of the cost of living is really the ratio that the current cost of a fixed collection of goods and services bears to the cost of the same collection of goods and services during a base period. We have to keep before us the figure of a "family basket" with contents unvarying in quantity as well as quality. The cost of living index over a period of years is a measure of the variations in the price of the identical family basket. If the index is to be useful at all there should be no substantial change in the contents of the basket. The only change permitted is the price change and the fundamental assumption made is that all other things such as quantity and quality in respect of the consumption of the family remain the same as before. When prices go up, they do not all go up in the same proportion and the typical householder will buy more of those articles whose prices have gone up least and less of those articles whose prices have gone up most. Thus there will be a change in the contents of the family basket even assuming that no new articles are substituted. A rise in the index of 100 points does not mean that the householder has to spend 100% more money per year but only that he would have to spend 100% more money to buy an identical basket denying himself the right to choose and to substitute from among competing commodities.

210. It follows that we cannot compare the index for two different places because the contents and size of the baskets in two places may be different e.g. in Bombay the basket contains 28 items of food whereas in Ahmedabad it contains only 14 items of food. Neither can we in respect of particular a town having no index number of its own take the nearest index number (which in India is often hundreds of miles away) as a faithful reflection of its own conditions. It will be too hazardous a guess in view of the different consumption patterns, income ranges and geographical peculiarities in different parts of the country. A mechanical adjustment of dearness allowance to a rise or fall in the cost of living index often creates anomalies. The employees in Ahmedabad bitterly complained before us that though their index had gone up much higher than the index in Bombay, yet Ahmedabad under the Sen Award got only 1 slab of dearness allowance whereas Bombay got 3 and several places in the State of Bombay, known to be much less expensive than Ahmedabad, due to being linked with the big city got 3 to 4 slabs.

211. In respect of the indices published with a base period prior to 1940 there are certain defects which vitiate their accuracy and reliability. These defects arise from the different modes of compilation of the indices, different ways in which the family budget enquiries were conducted and the different years selected as

the base period. Rajadhyaksha J. took note of these drawbacks.* In a Government publication doubts are cast on the wisdom of relying too much on these cost of living indices.† The main criticism runs as follows:—

- “1. The various family budget studies on which the indices are based, except in the case of the Bombay, Madras and to a certain extent the Nagpur indices, are either defective or insufficiently described. Since they have been held at widely differing intervals and there is the probability that the distribution of expenditure has changed appreciably during recent years, it is inadvisable to rely on the existing provincial series for an inter provincial comparison of the fluctuations of the cost of living.
2. The collection of price data is done in different ways in different provinces. In some provinces, prices are collected twice a week, in some once a week, in some once a month and so on. Again, in some provinces there are trained investigators and in some others it is done by officials of various departments.
3. The constitution of the index numbers differs from province to province. Some provinces do not include house-rent. Miscellaneous items are omitted in some provinces and very few items are included in others. Comparability between the different series can be secured only if comparable standards of living are assumed, if the price collection is done in a uniform manner, and when the constitution of various index numbers is brought to a uniform basis”.

212. Indices compiled in recent years, specially the 14 indices with 1944 as the base year in the Deshpande series are not so much open to criticism. But they also are not useful for our purpose. The employees strongly object to 1944, a year of high prices as the base; they think they will secure adequate compensation if 1939, the year preceding the period of high prices, were taken as the base. The only way to satisfy their demand would be to construct an index figure with base 1939 = 100 by working backwards and calculating an index figure for 1939 from an index for 1944. There are however two insuperable difficulties: first, we have no family budget inquiry immediately preceding 1939 and secondly, we have no authentic list of retail prices of the various articles which go to constitute the family budget as disclosed by a budget inquiry. It thus becomes well nigh impossible to link dearness allowance with the rise in the cost of living index. Moreover there are several B Class States in which there are no indices at all and for which the indices in neighbouring States are not applicable in view of marked differences in the pattern of living, outlay of family income and rationing of commodities. In several States of large dimensions and varying conditions there are index numbers for only a few places. For the entire State of Uttar Pradesh there is only the index for Kanpur and the principle devised by the Sen Tribunal of linking dearness allowance of towns to the nearest available index did not produce satisfactory results. In fact linking on this principle has been condemned by the Labour Appellate Tribunal in the A.D. Cotton Mills case where Quilon was linked to Madras for purposes of dearness allowance. In their judgement a flat rate appeared suitable under such circumstances and they directed accordingly.‡ In the course of the argument proofs were adduced to show how unsatisfactory the principle was when Poona was linked to Bombay and Surat to Ahmedabad. It even led to the anomaly of a workman in a first class bank in a third class area getting more than a workman of a first class bank in a first class area.

213. In the absence of satisfactory cost of living indices the method of adjusting dearness allowance to changes in living costs is not available to us. The alternative proposed by a few big banks, namely to calculate dearness allowance as a fixed percentage of the salary, say 35 per cent., 30 per cent. and 25 per cent. of the basic pay in Arcas I, II and III respectively, subject to a fixed minimum in each area has the merit of simplicity and practicability. Bank awards previous to the appointment of the Sen Tribunal gave dearness allowance as a flat percentage basis with a minimum to low-paid employees. The workmen themselves at first did not demand the linking of dearness allowance with any

*Adjudication by Mr. Justice G. S. Rajadhyaksha in the Trade Dispute re Posts and Telegraphs, 1946, Chapter V.

† Proceedings of the Third Conference of Labour Ministers: Bulletin No. 73 of Indian Industries & Labour Department. See also Guide to Current Official Statistics, Vol. 1, pp. 134 to 141.

‡ L.L.J. (2) 1951, p. 40.

particular index but seemed to be content with a percentage of their salary so long as a minimum was fixed. The objection now raised by them that a fixed percentage does not provide for any increase in the cost of living is not without force but the method proposed by them has been shown to be unworkable. To meet the main point of their objection the banks have proposed to adjust the dearness allowance in accordance with the principles followed by the Central Government for their employees, that is to say, they would increase or decrease the dearness allowance following upon the increase or decrease by the Central Government. In the circumstances the fixed percentage method with a minimum appears to be eminently suitable to the banking industry.

214. Dearness allowance as a flat or percentage basis has been very widely accepted in India. The Central and State Governments, Municipalities and Local Authorities pay a flat rate without any reference to a cost of living index. In a very large proportion of industrial awards a flat rate has been given.* It is true that in a very large sector of the Textile Industry in Bombay dearness allowance is linked to cost of living index but the jute industry, the engineering industry and the cotton industry outside Bombay are paying at a flat rate.

215. Even assuming that dearness allowance can be varied in response to changes in the cost of living index there is one insuperable difficulty in its application. The cost-of-living indices that we have in India are all related to the working class and not to the middle class from which the great majority of the bank employees are drawn. There are considerable differences in their income, expenditure, consumption and standards of life. Hence we cannot argue from the one to the other. In the proceedings before us the solution adopted by Mr. Justice Rajadhyaksha was canvassed, namely to apply a co-efficient to the cost of living of the working class and thus arrive at the appropriate figure for the middle class.† From the conclusion arrived at by the Rao Court of Enquiry appointed to investigate the question of dearness allowance for railway employees the working class cost of living was taken at Rs. 35 in 1939.‡ And from the conclusion established by the Bombay Labour Office inquiry into middle class family budgets the amount of three consumption units was considered as the average and a sum of Rs. 63 was considered as the income required in 1939. The ratio of the relative costs of living of the two classes was 35:63 for Bombay City, and the co-efficient was therefore 80 per cent. Mr. Justice Rajadhyaksha estimated the cost of living for working classes in Bombay at the time of his inquiry in 1944 was Rs. 65 or 70, an estimate which seemed to be confirmed by Mr. Deshpande's finding that in Bombay the budgets of working class people balanced at the monthly expenditure of Rs. 67-0-3 for 3 consumption units. Applying the co-efficient of 80 per cent. to Rs. 65 and Rs. 70 the minimum cost of living of the middle class came to between Rs. 117 to Rs. 126, roughly Rs. 122. The 80 per cent. co-efficient which was worked out with reference to the city of Bombay was applied to the whole of India.

216. Mr. Seervai urged that the co-efficient method was erroneous, that though the patterns of living keep on changing in both the classes they do not change in the same direction or to the same extent and that no constant co-efficient would be disclosed by different budget enquiries. We certainly cannot take the 80 per cent. co-efficient as proved or established because it is derived from a so-called causal relation between the expenditure of a working class family and the expenditure of a middle class family as disclosed by family budget enquiries. It is but a single incident and we cannot say whether the relationship is causal or a mere co-incidence, a chance correspondence between two sets of figures. In Mr. Seervai's view with no subsequent enquiries to confirm or it may be to contradict we cannot accept the 80 per cent. co-efficient as established. The co-efficient figure seemed to vary even as among the Counsel for workmen. Mr. Chari put it at 80 per cent., Mr. Phadke at 100 per cent. and Mr. Dudhia at 155 per cent. Thus the principle of the co-efficient threatened to become more and more vague and more and more of a guess-work. Even the attempt to buttress the principle by an appeal to figures at which working class budgets balance did not succeed, for budgets very nearly balance even above or below the limits so chosen and we do not know where to draw the line for budget-balancing or how to provide for the very human tendency to over-estimate expenditure and under-estimate expenditure.

217. We shall deal a little more fully with the various arguments relating to what should be the proper co-efficient. Mr. Phadke pointed out that the sum of

* Industrial Awards in India published by the Ministry of Labour p. 165.

† Rajadhyaksha J.'s Adjudication re: The Posts & Telegraphs, 1946, p. 64.

‡ Report of the Rao Court of Enquiry (1941) Vol. I. p. 52.

Rs. 159 which the Rajadhyasha Report adopted as for 3 consumption units excluded insurance premia, provident fund contributions, interest on loans, remittances to dependants etc. Such amounts were legitimate items of expenditure. Even excluding insurance premia and provident fund contributions and adopting the figures from Subramanian's Report (pages 86 to 89) for the two lowest income groups, the average of the items for the two income groups below Rs. 100 and below Rs. 150 would come to Rs. 13. If this amount was added to Rs. 159 the total would come to Rs. 174 for 3 consumption units at the index figure of 235. Rs. 35 was fixed by the Rao Court of Enquiry for the working class at 1939 level; and at 235 level this would come to Rs. 78. The co-efficient was therefore over 100 per cent. According to Mr. Duddha if we should take the average of all income groups upto Rs. 500 the co-efficient would come to very much more. On the other hand, Mr. Vimadala for the banks contended that the co-efficient should be 60 per cent. only or even a little less. He pointed out that the Sen Award fixed the salary both for the clerical and subordinate staff taking only 2.25 consumption units at the beginning of the career. The total emoluments for the subordinate staff was Rs. 76-8-0 and for the clerks Rs. 121-8-0. The co-efficient therefore really worked out at 58 per cent. If however house rent allowance was also included the co-efficient would come to 53½ per cent. as for the first year of the clerk's service. He further pointed out that a mill hand with 3 consumption units in Bombay got Rs. 30 as basic wage and Rs. 57-14-0 as dearness allowance totalling Rs. 87-14-0 on the July 1952 cost of living index and with 90 per cent. neutralization. A clerk in Bombay according to the Sen Award would be then getting Rs. 129. The co-efficient would work out at about 50 per cent. Even taking the figures as in Mr. Justice Rajadhyasha's Award a clerk should get Rs. 117 as in 1946 the cost of living index was 244. If it was brought up-to-date by applying the index figure for July 1952 and allowing 100 per cent. neutralization it would come to Rs. 150-8-0. A mill hand at 100 per cent. neutralization would be getting Rs. 94-5-0. Co-efficient would therefore be only upto 59½ per cent.

218. The Central Pay Commission fixed Rs. 90 per mensem as the minimum wage for middle class employees and Rs. 55 for the subordinate staff. The co-efficient would work out at about 64 per cent. In para 39 of their report the suggestions of prominent witnesses who gave evidence before them are set out. It will be noted that a comparison of the figures suggested by them as the minimum wage for a worker and for a middle class employee points only to a co-efficient varying between 60 to 70 per cent. The salaries fixed in various awards by Industrial Tribunals do not take the figure above this level. The Sen Tribunal observed that there had been an increase in the income of the working classes in most towns since 1939, and that the co-efficient in 1950 would be appreciably less than 80 per cent. Mr. Justice Rajadhyaksha observed that there had been steady deterioration in the standard of living of middle classes. It is common knowledge that the gap between lower middle class and the working class is narrower now-a-days. In these circumstances, it is proper to hold that the co-efficient may well be taken to be not more than 66 2/3 per cent. We must however frankly concede that this is merely an approximation by us and we cannot claim for it a scientific justification on the basis of reliable statistics for the reason that such statistics are not available. In this connection it may be noted that recent decisions of the Labour Appellate Tribunal would seem to have proceeded on the assumption that 80 per cent. co-efficient may be adopted. It does not appear however that the matter was disputed before them or in any way investigated in detail with reference to any statistics. The assumption was really based on the general acceptance of 80 per cent. co-efficient theory set out in Mr. Justice Rajadhyaksha's report. These decisions rejected the workmen's demand for higher wages which exceeded what even the 80 per cent. co-efficient would have entitled them to ask.

219. We have at present a large number of cost of living index numbers for the various centres in the country. The indices compiled by the State Governments are on varying base periods and on different methods of compilation. The indices compiled by the Labour Bureau of the Government of India for 16 centres are on more or less uniform lines with a common base 1944=100. The need for a unified index for the whole of India has been keenly felt. The reliability of an All-India cost of living index in the face of large variations in consumption habits, price trends and living conditions in the different parts of our sub-continent has been questioned, but there are problems of an All-India nature which make it necessary to compile a cost of living index not exclusively identified with any particular locality or state in the country. The determination of dearness allowance for about 50,000 bank employees in our reference scattered all over the country would obviously be a case in point. To meet the need engendered by All-India problems the Labour Bureau of the Government of India has, as a first stage, started the publication of an index based on a combination of all the 24 existing working class cost of living index numbers with 1944=100 as the base period. It is called an "Interim Series", pending the institution of a satisfactory procedure in the future. We accept the

All-India index as serviceable for our purpose for future adjustment of dearness allowance.*

SECTION II—*The Banking Situation in the Country.*

220. Banks serve as repositories of the cash resources of the public and as purveyors of finance to commerce and industry. Moreover with the growth of the banking habits and the expansion of business, the cheque has been replacing currency as a medium of exchange. A bank unlike a manufacturing concern obtains a very large proportion of its working capital from the depositors and only a small proportion from the shareholders. For these reasons banking has to be regarded as a public service and its activity to be regulated in the public interest. In India the demand for banking control had its origin in the frequent bank failures resulting from the unduly low reserves of cash and liquid assets, the grant of unsecured advances to the directors and to companies in which the directors were interested and the inexperience and incompetence of the bank managers. During the years 1934-45 no less than 715 banking companies were either wound up or liquidated.† The Central Banking Enquiry Committee analysed the causes of bank failure and mentioned these as the chief among them:— incompetence of directors, dishonest management, insufficient paid-up capital and reserves, combination of trading with banking, speculative investments, unsafe and injudicious advances, unrestricted loans to directors and the concerns in which they had a financial interest, utilisation of short-term deposits for long-term loans, poor quality of assets and poor liquidity of funds. The Banking Companies Act which consolidated and amplified the law on the subject came into force on 16th March 1949. The Act confers large powers of supervision, inspection and control on the Reserve Bank of India. It seeks to eliminate the undesirable features that characterised the working of banks in the past. Compliance with the provision of the Act and the exercise of proper control by the Reserve Bank under the Act will lead to the development of sound banking traditions and safe banking methods of which we have already had proofs in the banking history of recent years.

221. We may sum up the most important features of the Act.‡ It brings within its ambit all companies which receive deposits repayable on demand or otherwise for lending or investment; defines the forms of business in which banking companies may engage; prohibits banking companies from engaging in certain kinds of business with a view to eliminate non-banking risks; prohibits the employment of managing agents; prescribes minimum standards as to paid-up capital and aggregate reserves; prevents control of companies by a few persons to the detriment of the majority of shareholders; prohibits payment of dividends before all capital expenses are written off; provides for minimum cash reserve and reserve fund; prohibits common directors; places restrictions on the holding of shares in other companies; prohibits loans on the security of its own shares or to its own directors, or firms or private companies in which they are interested; gives power to the Reserve Bank to control advances; introduces a comprehensive system of licensing of banks and their branches; places restrictions on the opening of new branches and on the transfer of existing branches; imposes a duty to maintain sufficient liquid assets and to meet liabilities in India; prescribes a special form of balance-sheet and special rules as to its audit and publication; confers power on the Reserve Bank to call for periodical returns and inspection of books and accounts and empowers the Central Government to take action against banks conducting their affairs in a manner detrimental to the interests of depositors. The Act provides also penalties for contravention of its provisions.

222. Section 36(2) of the Banking Companies Act, 1949, provides that the Reserve Bank shall make an annual report on the trend and progress of banking in the country, including in such report, its suggestions, if any, for the strengthening of banking business throughout the country. The following suggestions were offered to banking companies by the Reserve Bank to rectify the defects observed in the course of inspection.§

- (i) Management: Some of the directors of banking companies lack the knowledge and experience necessary for the exercise of adequate supervision over the activities of the chief executive officers, which

* "All-India Average Working Class Cost of Living Index Number", Indian Labour Gazette, December, 1952, Vol. X, No. 6, pp. 449 to 454.

† A. N. Aliyar, The Banking Companies Act, 1949, p. 290.

‡ A. N. Aliyar, The Banking Companies Act, 1949, p. 6.

§ Trend and Progress of Banking in India, 1949, p. 51.

enables these officers to exercise wide powers while making investments and advances. In a few cases, the system of internal audit and inspection was found to be defective. Some banking companies were in the habit of declaring dividends without making adequate provision for bad and doubtful debts, depreciation in investments or other unrealisable assets, etc.

- (ii) Investment Policy: In the case of some banking companies investments in Government securities were low in proportion to their resources, while in a few cases frequent borrowing reduced the liquidity ratio. Some banks held shares of companies in which some of the directors were interested and also shares which were not readily marketable.
- (iii) Lending Policy: The advances of some of the banks were entirely out of proportion to their resources and in a few cases clean advances preponderated, while the machinery for investigating the credit-worthiness of the borrowers was defective. Some banking companies ignored the principle of diversification of risks.
- (iv) Branch Banking: It was observed in the case of some of the banking companies that the system of supervision over branches was unsatisfactory, and regular returns of advances, etc., were either not called for or not properly scrutinised at the head office.

223. The Indian Joint Stock banks other than the Imperial Bank of India vary greatly in size, ranging from the largest three banks (the Central Bank of India, the Bank of India and the Punjab National Bank) with deposits of above Rs. 40 crores each to very small units among the non-scheduled banks. In the structure of Indian banking we have a few large banks of all-India importance with branches throughout the country; we have a great many banks that restrict their operations to more or less specific regions; and we have a considerable number of institutions, especially those in the non-scheduled class, which may be described as Unit banks serving a particular town or district in which they operate. A not uncommon feature of several Indian banks is the low level of capital and reserve altogether insignificant for the type of business they are expected to undertake. Banking legislation has now fixed the minimum capital, and has prescribed that at least 20 per cent. of the net profits should be transferred to the reserve until the amount of the reserve fund is equal to the paid-up capital. In 1951 it is reported that 26 banking companies had no reserves whatsoever, 218 had reserves less than 50 per cent. of their paid-up capital and 133 had reserves of more than 50 per cent. of their paid-up capital.*

224. Of the total paid-up capital of Rs. 46 crores for 76 Indian scheduled banks and 524 non-scheduled banks the share of the scheduled banks accounted for Rs. 36 crores. The ratio of capital and reserves to total deposits has been rather high in India though the sudden increase in war-time funds lowered it. The general trend is brought out by the following table:—

CAPITAL RESOURCES OF INDIAN SCHEDULED BANKS
(Excluding Imperial Bank)

(in rupees : 000,000 omitted)

Year	No. of Banks	Total Deposits	Paid-up Capital	Reserves	Capital & Reserves per Bank	(3 & 4) as percentage of (2)
	(1)	(2)	(3)	(4)	(5)	(6)
<i>Indian Union</i>						
1946	77	6,112	289	144	5.6	7.1
1947	80	6,199	308	158	5.8	7.5
1948	78	5,949	313	195	6.5	8.5
1949	77	5,091	311	201	6.6	10.0
1950	75	5,230	304	200	6.7	9.6
1951	72	5,189	289	203	6.8	9.5

*Report of the Central Board of Directors, Reserve Bank of India, 1952, p. 22.

225. The reserves of Indian scheduled banks are now well over three-fourths of their paid-up capital but the reserves of non-scheduled banks are only about two-fifths of their paid-up capital. There are wide variations in the capital and reserve structure of individual banks. 22 large scheduled banks accounted for capital and reserves totalling Rs. 48·8 crores while 248 non-scheduled banks accounted for Rs. 3·7 crores. The great disparity and uneven strength is revealed by the fact two-thirds of the total number of banks held barely 5 per cent. of the total capital and reserves and 3 per cent. of the total deposits of all the Indian banks put together.* The ratio of paid-up capital and reserves to deposits for all Indian banking companies (10 per cent.) compares favourably with the ratio for the U.K. (2 per cent.) or the U.S.A. (8 per cent.). But the very high proportion maintained by several non-scheduled banks in India should not be taken as an indication of strength, rather as a proof of their inability to attract sufficient deposits inspite of the high rates they offer.

226. The capital and reserves of a banking company are designed to protect the depositors. The actual size that will serve the purpose will depend upon the volume of deposits and on the liquidity of assets into which those deposits have been converted. Moreover the capital and reserves together represent the bank's own resources as distinguished from deposits which though they form a part, in fact, a major part of the working capital, constitute its outside liabilities. Unless it be a case of deposit starvation a high ratio is an important index of the strength and stability of a bank. In 1951 the ratio of paid-up capital and reserves was a little over 8 per cent. for scheduled banks and a little over 19 per cent. for non-scheduled banks.

227. Deposits are, as it were, the raw material of the banking industry. On the amount of deposits and even more on the use made of them depend the earnings and eventually the profits of the banks. In India as elsewhere there has been a phenomenal rise in bank deposits since about 1939, the main reason for the rise being the war-time expansion of currency and of business activity. Since 1948 there has been a serious fall, partly due to the adverse balance of trade in 1949, the incidence of high taxation coupled with high prices which affected people's capacity to save, partition of the country which has obliged large numbers of the displaced who migrated to India to leave behind their assets and maintain themselves on their past savings, integration of Indian States and Jagirs and the consequent disappearance of the Princely and Zamindari Orders as sources of investment and finally suspension of payments by banks in liquidation or moratorium.

* Trends in Progress of Banking in India, 1951, p. 9.

The following table shows the volume of deposits of the several classes of banks:—

Growth in Deposits of the Several Classes of Banks

(In rupees : 000,000 omitted)*

(In rupees : 000,000 omitted).

Classes of Banks	Year ended										Percentage increase of 1951 over 1939
	1939		1948		1949		1950		1951		
	Deposits	Percent to total	Deposits	Percent to total	Deposits	Percent to total	Deposits	Percent to total	Deposits	Percent to total	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1. Imperial Bank of India .	878	28	2,803	24	2,505	23	2,314	217	2,312	22	163
2. Major Indian Sch. Banks (a).	745	24	3,120	27	2,834	26	2,894	26	2,902	27	290
3. Other Sch. Banks .	192	6	2,847	24	2,303	21	2,373	22	2,281	21	1,088
4. Exchange Banks . .	742	24	1,602	13	1,620	15	1,720	16	1,747	16	135
5. Scheduled Banks (Total of 1 to 4).	2,557	82	10,422	88	9,262	85	9,301	85	9,242	86	261
6. Non-scheduled Banks (b)	193	6	761	9	719	7	740	7	491	5	154
7. Co-operative Bank with paid-up capital and reserves of Rs. 100,000 and over.	388	12	720	6	876	8	900	8	999	9	157
8. Total (5 to 7) . . .	3,138	100	11,903	100	10,857	100	10,941	100	10,732	100	242

(a) Allahabad Bank, Bank of Baroda, Bank of India, Central Bank of India and Punjab National Bank.

(b) Excluding banks with paid-up capital and reserves below Rs. 50,000.

Total deposits of joint stock banks in the Indian Union fell by Rs. 37 crores in 1951 in contrast with a rise of Rs. 25 crores in 1950. The reasons assigned are dis-saving by the middle class depositors on account of continuing inflation, decline in trade and business, the emergence of an import surplus and the rise in working costs.

228. There was a continuous growth in the number of offices of banking companies up to 1947, the rise being spectacular in the years 1943, 1944 and 1945. There was a small rise in 1947, a steep fall in 1948 (mostly due to partition of the country) and a rise in 1949. Inflation and cheap money conditions of the war and post-war period led to the expansion of banking activity. A number of new banks came to be floated while the old established banks started on a career of opening new branches indiscriminately. Competition for deposits and advances, competition in interest rates, competition for the limited resources in managerial ability and technical personnel, competition in offering easier terms to borrowers all led to serious banking difficulties. Some banks failed, several branches had to be closed and a few institutions went into amalgamation. The institution of a system of licensing banks as well as branches has practically put an end to the further deterioration in the banking situation. The weeding out process is still going on. The elimination of uneconomic units will make for stability in the banking industry. During the period 1948 to 1951 branches of scheduled banks declined by 327, that is 10 per cent. of the total number of offices of scheduled banks. The figures for non-scheduled banks were 511 or 25 per cent. The decrease in 1951 was 119 for scheduled banks and 56 for non-scheduled banks.

229. We may compare the banking situation in India with that in the United States of America. We find that the trends in earnings and expenses, in wages and profits have been the same in the two countries, though there is some difference in range and amplitude. There is similarity in the fundamentals of the situation.

230. Total current operating earnings of "insured commercial banks" in U.S.A. in 1951 were \$4,395 million out of which \$4,245 million represented income on loans and \$984 millions interest on U.S. Government obligations. Together these two items accounted for about four-fifths of the total earnings. In recent years there has been a marked change in the relative importance of these two largest sources of earnings. The respective percentages in total earnings of the loan income and the interest on U.S. Government obligations in 1945 were 29 and 46 and in 1952 were 55 and 22.

231. Total current operating expenses in 1951 amounted to \$2,701 million, an advance of 11 per cent. over 1950. Expenditure for wages and salaries comprised one half of the total expenses. The interest paid on savings and time accounts amounted to one seventh of the total expenses.

232. The increase in expenses in 1951 was more than offset by the rise in earnings. The rate of net earnings on total assets rose from 0.93 per cent. in 1950 to 1.00 per cent., the rate varying with the size of the bank. The net profits before taxes were a record high at \$1,468 million and after taxes \$908 millions. The rate of net profits after taxes on total capital accounts for all "insured commercial banks" was 7.8 per cent.*

233. In 1943 salaries for officers accounted for \$225 million and for employees \$556 million, in 1951 these amounts increased respectively to \$486 million and \$864 million. The total bill for salaries rose from 30.31 per cent. of the total expenses to 31.35 per cent.†

234. The war-time and post-war trends in our banking followed in many respect the pattern of developments elsewhere. When banks in India point to changes in the banking situation as a sufficient reason not to improve the living standards the workman realizes that there is nothing peculiar to them and that they are called upon to make adjustments to a state of affairs where the war boom or post-war rehabilitation are no longer the controllers of economic activity. Consequent on the huge war-time expenditure there was a huge accession in bank deposits. These rose from Rs. 256 crores in 1939-40 to Rs. 1,020 crores in 1946 which represents a four-fold increase. Moreover people showed preference to demand deposits and not to time deposits, that is they preferred a high degree of liquidity under the

*Annual Report of the Federal Deposit Insurance Corporation 1951 pp. 43 to 47.

†Annual Report of the Federal Deposit Insurance Corporation 1951 p. 162.

uncertain conditions of war and in an era of cheap money and low rates there was nothing much to choose between the two kinds of deposits. There was also a change in the distribution of banking assets brought about by the dwindling amount of foreign trade, the plentiful supply of liquid assets looking for investment and financial assistance by the State to all those who were engaged in war industries. Thus investments increased in importance while "advances and discounts" lost their pre-war significance. Banks appeared to take on the role of financing Government rather than trade and industry. They became transformed from providers of short-term capital to business into providers of long-term funds to Governments. In short there was a switchover from advances to securities in the bank portfolios.

235. With the re-establishment of peace conditions these trends have been reversed. In 1948-49 the deposits fell by Rs. 71 crores—a sharp contrast to the average increase of Rs. 98 crores in the war years. The distribution of assets also shows a pronounced tendency to return to pre-war patterns in the sense that advances, loans and bills are resuming their previous importance. In 1943-44 the percentage stood at 27; in 1948 it had increased to 53.

236. Excluding the Imperial Bank and the Exchange Banks, in 1938 there were only 32 scheduled banks with 677 offices, in 1947 there were in undivided India 83 scheduled banks with 3,025 offices thereby showing a phenomenal growth during the war and post-war year. In 1951 in the Indian Union there were 76 scheduled banks with 2,582 offices. Since 1939 there has also been an enormous expansion in bank deposits rising from Rs. 92 crores in 1938 to Rs. 651 crores in 1947 and Rs. 750 crores in 1951. The decline in recent years is due to the partition of the country, the contraction in business activity and the option exercised under the Banking Companies Act by several mixed concerns to shed their banking activity and cease to be called banks.

237. In 1939 there were 243 non-scheduled banks with 2,381 offices; by 1947 the number of these banks had increased to 403 with 1,991 offices and their total deposit stood at Rs. 91 crores. In 1951 their total number stood at 377; their offices at 1,498 and their deposits at 49 crores. There has been on the whole a phenomenal increase in the number of offices of these banks during and since the war and at present nearly half the total number of commercial banks in the country are accounted for by non-scheduled banks. A substantial part of the growth in the number of offices is attributed to banks with small resources belonging to the non-scheduled class. To quote from the Report of the Rural Banking Enquiry Committee, "Although it would not be correct to state that all scheduled banks are strong and are run on sound lines, and that all non-scheduled banks are weak, it would not be wrong to conclude, from the statistics given above, that a substantial part of the growth of offices of commercial banks in recent years is accounted for by banks with comparatively small resources, several of which will probably find it difficult to function when the provision of the Banking Companies Act are fully enforced".*

238. A fairly reliable index of the financial strength of banks and of their capacity to meet a reasonable demand for improved conditions of service is furnished by the annual dividends they pay to the shareholders. It was contended by the Counsel for the workmen that dividends are a matter of policy, and that it is quite possible that dividends are withheld in order to deny the workmen their just dues in connection with wages or with bonus which is often linked to dividend. But no company that has a care for its reputation, for the market value of its shares, for the confidence of the public and for its capacity to draw funds or to sell its wares can afford to keep back dividends. A prudent dividend policy is rightly taken as a pointer to the soundness of the concern. Normally the payment of a dividend which is a fair return on the capital of the shareholders is the most anxious concern of those in charge of enterprises. There is a firmly established tendency among big banks in India and elsewhere to stabilise the dividend between 12 and 16 per cent. There is also the contrary tendency in newly started banks in India to distribute too large a share of their net profits as dividends with the object of maintaining the value of their shares and inspiring a spurious kind of confidence in their prospective depositors. The dividend in the case of a bank is not merely a distribution of profits. It is a cementing force between the bank and its constituents. It is a ready test of the efficiency and credit-worthiness of a bank. If the yield is high the general impression is that all is well with the bank; if the yield is low or none at all the inevitable conclusion to which people rush is that there is weakness in bank's earning power. There are many banks in India, far too many, that do not earn enough to pay even a moderate rate of dividend.

*Report of the Rural Banking Enquiry Committee, 1950, p. 15.

Statement showing the distribution of Indian Joint Stock Banks in the several dividend groups.

Class of Banks		Percentage dividend declared				Not available	Total
		Nil	Upto & including 6%	Above 6% & upto 14%	Above 14%		
A1. Scheduled Banks	1949	38 (30)	19 (12)	17 (12)	2 (2)	...	76 (56)
	1950	30 (24)	25 (17)	17 (11)	3 (3)	2 (1)	77 (56)
	1951	31 (24)	22 (16)	18 (17)	3 (3)	3 (2)	77 (56)
A2. Non-Scheduled Banks Paid-up capital & reserves above Rs. 5 lakhs	1949	51 (17)	18 (3)	4 (2)	...	...	73 (22)
	1950	42 (18)	23 (5)	5 (3)	2 (1)	...	72 (27)
	1951	39 (18)	21 (5)	2 (2)	3 (2)	7 (2)	72 (27)
B „ „ Rs. 1 lakh Rs. 5 lakhs	1949	75 (5)	72 (4)	37 (2)	7 (1)	1 ...	192 (12)
	1950	75 (2)	62 (3)	46 (2)	7 (1)	3 ...	193 (8)
	1951	74 (2)	57 (2)	45 (3)	6 (1)	12 ...	194 (8)
C „ „ Rs. 50,000 Rs. 1 lakh	1949	55 ...	37 (1)	22 (2)	1 ...	7 ...	122 (3)
	1950	47 ...	29 ...	30 (2)	4 ...	9 ...	119 (2)
	1951	47 ...	32 ...	25 (2)	4 ...	11 ...	119 (2)
All Classes	1949	219 (52)	146 (20)	80 (18)	10 (3)	8 ...	463 (93)
	1950	194 (44)	139 (25)	98 (18)	16 (5)	14 (1)	461 (93)
	1951	191 (44)	132 (23)	90 (18)	16 (6)	33 (2)	462 (93)

NOTE.— This statement has been drawn from Statistical Tables relating to Banks in India (Tables 29 of 1950 and 33 of 1951). The figures in brackets denote the number of banks included in the Government Notification referring the disputes for adjudication — S.R.O. 36 of 5th January 1952.

239. The statement reveals the financial position of the banks in so far as a dividend policy can. In 1951 out of 93 banks in our reference for which data could be obtained as many as 44 banks paid no dividend. If we take the total number of banks reporting to the Reserve Bank out of 462 banks as many as 191 banks paid no dividend. Even among the scheduled banks there was a considerable number that falls in the category of "no dividend" for 1949, 1950 and 1951. The obvious inference is that there are definite limits to the earning power of the banks, and that the determination of wages and salaries should be governed by their capacity to pay.

240. Additional confirmation of the view that the range of earnings is not such as to justify the demands of the workmen for a high plateau of total emoluments is found in the market value of shares. Shares fluctuate in response to the earning capacity of concerns of which the payment of dividend is an important index.

Statement Showing Fluctuations in Market Value of Shares during the Years 1949 to 1952

Name of Bank	Value of Shares		Market value of Shares (highest to lowest)				Latest Quotation (as on 27-1-1953)
	Face	Paid-up	1949	1950	1951	1952	
1. Hyderabad State Bank	100	100	124-105	118-105	115-107	107-105	
2. United Bank of India	A. 50	25			35½-25½	18½-16	16½
	B. 25	25			17-3/16-10½	10½-8½	9-1/16
	C. 20	10			14½-8½	8½-7	7½
	D. 10	10			8½-4½	5-3½	3-15/16
3. United Commercial Bank	100	50	61-37½	51½-42½	48-38	41½-32½	34
4. Bank of Bikaner	50	25	30-15	28-15	25-15	25-15	14
5. Bank of Jaipur	100	50					18½
6. Devkaran Nanjee Banking Co.	50	50	52-40	41-35	39-32	35½-34	35
7. Hind Bank	100	50	32-21	31½-22½	29½-21½	23½-19	19½
8. Hindustan Commercial Bank	100	50					9½
9. Hindustan Mercantile Bank	100	50	22½-14½	23-18½	21½-13½	15½-10½	11
10. Jodhpur Commercial Bank	10	5	3-2½	2½-2	2½-2	2-1½	1½
11. Mercantile Bank of Hyderabad	100	50		47-21			
12. National Bank of Lahore	10	10	4-2	4-2			
13. National Savings Bank	Ord. 50	3			1½-1-7/16	2-1½	27
14. Pandyan Bank	25	20	35-27	17-15			
15. Travancore Bank	25	25	19½-13½	14½-12½	14-12½	12½-10½	11½
16. G. Raghunathmull Bank*	100	50	-30	-30	-19	-40	
17. Thomcos Bank	10	5	2½-1½	1½-1½	1½-1	1-½	

* Only the lowest market values are available.

241. The statement is compiled out of the returns made by some banks in response to a request for the submission of the market value of their shares. We may consider the returns as coming from a cross section of the banking industry, leaving out the bigger units such as the Imperial Bank of India, Exchange Banks and the major Indian scheduled banks. Even so, we find a sharp decline in share values during the course of the last three or four years, indicative of a decline in their financial strength, whatever may be the reason that has brought it about. That there is some persistent weakness in a large section of our banking industry is shown also by the fact that out of 129 banks under reference to us as many as 30 are described as banks under moratorium, in liquidation, under schemes of arrangement, as those prohibited from accepting fresh deposits or as those regarding which applications for schemes of arrangement are pending. In the reference to the Sen Tribunal the corresponding figures were 205 and 63. Even allowing for the abnormal condition created by the partition of the country the figures appear to be large and may be taken as symptomatic of the general health of a large section of the banking industry. The downward fluctuation in the share value of banks are a reflection upon the earning capacity of the banks concerned and such banks do make up a considerable fraction of the total numerically, though not with reference to total resources or the total strength of workmen employed in the banking industry as a whole.

242. The Securities Index published by the Reserve Bank of India discloses the range of fluctuation in the variable yield securities to which group the banks belong. Since 1949 there is a decline in the market value of bank shares, but it is a decline which is in keeping with the downward trend in various kinds of securities which in its turn is a reflection of diminished activity in trade and industry. The capital position of the banking industry *vis-a-vis* the various sections of Government and industrial activity is brought out by the following table* :—

Securities Index : 1938-100

	1948-49	1950-51	1951-52
Banks	133.2	122.8	116.1
Insurance	159.5	123.5	112.1
Investment Trusts	192.8	163.1	149.2
Electricity Tramways	87.4	89.1	90.2
Shipping & Other Transport	144.2	94.5	98.6
Railways	90.4	91.7	87.5
Plantations	157.0	152.9	177.5
Cotton, Woollen & Silk Mills	202.2	157.5	169.4
Jute Mills	112.1	93.3	99.5
Coal	129.4	120.9	125.7
Mining & Oil	81.5	71.8	76.9
Iron & Steel	150.1	159.6	163.4
General Engineering	192.1	176.3	172.0
Sugar	138.3	101.1	97.1
Breweries	117.3	101.9	84.
Chemicals	176.2	173.3	176.2
Paper	125.3	114.3	127.7
Cement	133.7	135.8	143.8
Government of India	102.1	100.1	95.9
Municipal, Port Trust etc.	98.5	96.6	92.6

*Reserve Bank of India Bulletin, January 1953, Table XXV-A, p. 62

SECTION III: PRINCIPLES OF WAGE DETERMINATION.

1. *Subsistence Wage and the Living Wage—the Floor and the Ceiling*

243. From the point of view of a workman the amount of wages he gets is the most important consideration. There are of course subsidiary factors to be taken into account such as a sense of income security, chances of promotion, the physical environment in which he works, opportunity to show initiative, machinery to adjust grievances, provision for retirement and old age and the pattern of social relationships with the employer. The chief demand is always for a basic or minimum wage, first because the worker whose bargaining power is weak must not be exploited and secondly because the supplementary emoluments such as bonus, gratuity and provident fund are linked to the level of wages. The regulation of minimum wages is now well nigh universal not only in the obviously sweated industries but in all grades of employment with a view to raising the national standards of living and to reduce, if not prevent, the industrial disputes. To quote from the report of the Bombay Textile Labour Inquiry Committee:

“Minimum wage-fixing machinery has thus advanced from the position of being applied to a few exceptionally low-wage industries for merely restoring proper competitive conditions to being applicable to all industries where labour is unorganized or weakly organised. An exceptionally low wage level can no longer be considered a necessary requirement before minimum wage regulation is introduced. Such regulation may now be properly introduced in normal times in industries paying the current rates of wages. The only necessary test is the state of labour organisation.”*

244. We are not concerned directly with the technique of wage determination. Whether the settlement is brought about by individual effort, collective bargaining or some form of authoritarian regulation there should always be a governing principle or an accepted theory of wages. Ultimately wages are determined by the demand for and supply of labour, or more precisely by the value of the net product of the marginal unit of labour. The actual limit is fixed by the conditions of the employment market and by the bargaining strength of the employee class.† Wage regulators finding that the marginal productivity principle does not work satisfactorily in actual conditions, due to imperfections of the market and defects of labour organization have developed three main criteria, a basic wage, a fair wage and a living wage. A basic wage is said to be appropriate to subsistence, that is, the income sufficient not only for physiological existence but also for some elementary social necessities such as medical attention, primary education and a modicum of recreation. A fair wage is one that is at least equal to that received by workers for tasks of equal skill, difficulty or irksomeness. A living wage is best described by Justice Higgins oft quoted words: one required “for the normal needs of the average employee regarded as a human being living in a civilised community A living wage should not only provide for absolute essentials such as food, clothing and shelter but also for a condition of frugal comfort estimated by current human standards. Treating marriage as the usual fate of adult men, a wage which does not allow of the matrimonial state and the maintenance of about five persons in a home would not be treated as a living wage”. In the directive principles of state policy inscribed in Article 43 of the Constitution of India the Government is asked “to endeavour to secure by suitable regulation of economic organization to all workers, agricultural, industrial or otherwise, work, a living wage, condition of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities”. According to the Committee on Fair Wages, the living wage represents a standard of living that would enable the earner to provide for himself and his family not merely a bare physical subsistence for the maintenance of health and decency but a measure of frugal comfort including education for children, protection against ill-health, requirements of essential social needs and a measure of increase against the more important misfortunes including old age.‡

245. These terms, basic wage, fair wage and living wage with their variants the poverty level, the subsistence level, the comfort level and the decency level are all subjective in character. There is no exact pecuniary measurement for these concepts. Any minimum we can think of is bound to be acceptable to some and

* Report of the Bombay Textile Labour Inquiry Committee, Vol. II, page 83.

† Wages—General Report, published by the I.L.O.; 1948, page 37

‡ Report of the Committee on Fair Wages, 1949, page 7.

repugnant to others. To define the content of the standards of living will necessarily take us into the region of the speculative. Any quantum of goods and services that we attach to a basic, fair and living wage is bound to be relative and somewhat arbitrary. The Counsel for the workmen fixed the starting salary of Rs. 150 with certain allowances, bonus and several retiring benefits as "minimum subsistence"; the Counsel for the banks considered it very much a living wage. The target to be reached is a wage, taking the wage in the sense of total emoluments during service and in retirement which must be sufficient to enable a man in receipt thereof to maintain himself and his family in a fair and reasonable standard of comfort in relation to the nature of his occupation and the class from which he is drawn. What then is the minimum in terms of money that will be required to achieve these objects? The basic wage, important as it is, is but one of the several constituents that make up the total income. Hence in devising a pay scale we must not ignore the fact that it has got to be supplemented by dearness allowance, house rent allowance, special allowances, other allowances, bonus, gratuity, pension, provident fund—all or several of these as the case may be. The sum total of these monetary receipts constitutes the workman's remuneration for the service he renders as a clerk or a subordinate, in one capacity or another. The scale of remuneration will take him a good distance on the road to a "living wage" though he may prefer to call it "subsistence", "minimum subsistence" or "minimum subsistence plus". It is his object to achieve an adequate standard of living and having achieved it to maintain it by the quality of his output and by the collective effort of his fellow-workers.

246. The term "standard of living" has been defined in various ways, according to the emphasis laid on different aspects of the problem. Subjectively it represents a sum of the economic satisfactions or utilities which an individual and his family derives from the consumption of goods and services that he is able to obtain with his income during a given period of time. Objectively in the words of Dr. Bowley, "In general a standard of living may be defined as such a sum of commodities and services of all sorts as is habitually consumed in a given length of time, say a year, by a person or family group of a given size or a given social status. It is not itself a sum of money but a sum of goods. Its money cost will necessarily vary at different times and places and must therefore be recalculated periodically."*The plane of living is the composite of goods and services actually consumed; the norm of living represents a combination of goods and services recommended by experts such as physiologists and hygienists who base their judgments on certain objective criteria; the standard of living consists of that consumption which the individual or family deems necessary or proper. In all considerations of a standard of living we have to take note of the inter-relation of the income of the worker and the prices he has to pay, as changes in incomes and in prices have serious effects on the level and pattern of consumption. We must also take account of certain items of the worker's income, if any, not coming to him directly in the shape of money e.g. free income through free schools, free hospitals, free or low cost housing, also social services such as insurance against sickness, old age, accident, unemployment, etc.

247. The fixation of minimum wage raises the question of the size of the family. In this matter certain norms have come to be accepted. The Bombay Textile Labour Inquiry Committee defined the "living wage standard" in all centres with reference to a family of four persons, i.e., a man, a wife and two dependents who would ordinarily be children under fourteen.† The Central Pay Commission estimated the minimum needs of an employee at a period when he may reasonably be expected to have at least two children to support beside his wife.‡ The U.P. Labour Enquiry Committee was of opinion that the minimum wage has to be fixed in respect of a worker with an average family consisting of 1·2 adult males, 1·1 adult females and 1·2 children.§ The Committee on Fair Wages went into the question of the standard family, as no wage can be deemed to be fair unless it meets the reasonable demands of the worker and those depending upon him. The employers' organizations that appeared before them generally suggested that the standard family should be regarded as one consisting of three consumption units (according to Lusk's co-efficients for food requirements) while the employees' organizations suggested 4 consumption which would include husband, wife, three

*Bowley, Measurement of Social Phenomena, page 164.

†Report of the Bombay Textile Labour Inquiry Committee. Vol. II, Final Report 1940, page 382.

‡Report of the Central Pay Commission, 1947, page 33.

§Report of the U.P. Labour Enquiry Committee, 1948, page 30.

children and one dependent. The Committee examined the figures as revealed by the Family Budget Enquiries conducted during 1943-46 under the All-India Scheme of the Government of India. Making allowance for the fact that the number of earners in the family often exceeded one and for the fact that the number of persons in the family also showed a slight excess the Committee "decided that if the standard family was reckoned as one requiring three consumption units and providing for one earner the decision would be in accord with the results of the family budget enquiries". The awards given by Industrial Courts and Tribunals have tended to accept the standard family of five persons or roughly three consumption units†.

2. The level of national income.

248. A national income estimate measures the value and volume of commodities and services turned out during a given year. It includes all economic activity, whether it be the production of shoes or aeroplanes, whether it is the rendering of a service by a medical man, school teacher or a bank workman. The estimate represents a total for the country's whole economy and also shows the magnitude of any given sector—the product, expenditure or income—in the total output. In arriving at the national income estimate care should be taken to avoid the double counting involved in including both the raw material and the final commodity into which the raw material enters.

249. The National Income Committee in their first report issued in April 1951 have estimated the national income of India for 1948-1949 at Rs. 8,710 crores. The population in 1948 was taken as 341 millions on the basis of the estimates made by the Registrar General. The *per capita* national income, therefore, works out at Rs. 255.‡ The estimate is provisional in so far as they have had to use sometimes material the reliability of which could not be known. But all the same the estimates prepared by experts in the field can be taken as a near approximation to the nation's income. It is not intended that everybody's wages in the country should be fixed as close as possible to the *per capita* income. The average wage however should not be seriously out of balance with the level of the average income of a nation, unless there is higher productivity in a particular sector to justify higher remuneration. Assuming that there is nothing in the nature of extraordinary efficiency in the typical worker in our banks and assuming also that he is the bread-winner for a family of 5 persons (he, his wife and three children) a payment to him on the basis of the *per capita* income will yield a sum of Rs. 225×5—Rs. 1125 per year or Rs. 93-12-0 per month. It will represent his total emoluments at the 1946-49 level of prices.§

250. If the national income figures were broken up into their constituent elements, agriculture represents 47·6 per cent. of the aggregate output, mining manufacturing and hand-trades 17·2 per cent., commerce, transport and communication 19·5 per cent, all other services like professional, domestic, Government 15·7. Organized banking and insurance are lumped together as one item under "commerce, transport and communication" in the national accounts. They yield a net output of the value of Rs. 50 crores, that is, 6·6 per cent. of the national income which must be considered quite a tiny fraction of the economy of so huge a country as India. Looking at the matter from another angle, namely, net output per engaged person in 1948-49 we have Rs. 1,500 in banking, insurance etc., Rs. 1,700 for mining and factory establishments, Rs. 1,900 for railways and communications, and Rs. 1,300 for government service and Rs. 600 for professions and liberal arts. Even if the bank workman was given as his remuneration the total value of his output or service, leaving nothing for managerial functions, for reserves and for expansion, the figure will not exceed Rs. 125 a month. We are not suggesting that the workmen should be paid according to the *per capita* national income or the *per capita* banking income but we want to point out that what he claims as his total remuneration—basic pay, allowances, retirement benefits and so forth—should not be very much out of alignment with what he produces or what the nation with his co-operation produces. The national income is the sole source of sustenance for the people. There is none other. A higher national income makes it possible to give a bigger share for all. The pay scales and the entire system of remuneration or benefits that we have devised may be judged with these considerations in view.

*Report of the Committee on Fair Wages, 1949, page 18 also Appendix III, page 42.

†Bombay Labour Gazette, June 1947, para. 27, pages 788-789.

‡First Report of the National Income Committee pages 29, 31 and 33.

§Cf. the estimate of National Income for 1950-51—Rs. 9,000 crores. First Five Year Plan, page 19.

3. The Productivity of Labour

251. The expense ratio, that is the gross profit rate minus the net profit rate, is a good index of a bank's efficiency. In the year 1950 it was 1.63 for the Imperial Bank of India, 1.81 for the Central Bank of India, 1.12 for the Bank of India, 1.30 for the Bank of Baroda, 3.34 for the Punjab National Bank, 2.38 for the Allahabad Bank and 2.15 for the Indian Bank.* The main factor in the high expense ratio is the small volume of resources on which most banks in India have to operate, whether we consider these resources for the bank as a whole or for each of the branches. Allied to the scanty supply of funds the method of banking leaves much to be desired. Modern devices are conspicuous by their absence. Little effort is made to introduce systems of cost accounting and job evaluation and in many banks no clear distinction is made between profitable and unprofitable activities. Perhaps the bank management has not bestowed sufficient thought on the recruitment of the personnel both in the clerical and administrative cadres. "In Great Britain" says Sir Alexander Gray, "the staff of a new branch may consist of nothing but a Manager and one junior clerk, preferably an apprentice while a small office at Parei (a poor part of Bombay) would require an Agent, Accountant, Receiving Cashier, Paying Cashier, two clerks and about four sepoys or hamals, together with an organization at Head Office to replace these men at a moment's notice in case of sickness or ceremonies".† The high morbidity and mortality rates in Indian banking also bear out the meagre efficiency with which our financial institutions are conducted. All these involve heavy costs and reduced output per workman. If marginal productivity is a criterion for the payment of wages then the workmen in our banks have to content themselves with quite a modest scale of remuneration. The awards of Industrial Tribunals and Courts make no more than a passing reference to the productivity of labour. They seemed directly concerned with the minimum needs of labour and the minimum wages required to satisfy those needs. In banking industry, however, it is very difficult to fix standards of work by means of time and motion studies, by piece-rate system or by incentive methods of wage payment. Even so productivity of labour, measurable or not, is the chief source of income to the firm. Higher the productivity, higher the wage rate the employer can afford to pay. Minimum wage is not inconsistent with the principle of productivity. Fixation of a minimum wage tends to promote efficient organization and to weed out inefficient units or inefficient entrepreneurs whom an unrestricted policy of cutting wage rates lower and lower have allowed to survive. When a floor is fixed below which wages cannot fall, the only means for the less enterprising employers to continue in trade is to raise their volume of production or change their methods of business. Similarly the inefficient workers whose output does not justify the payment of a minimum wage will lose his job just as it will afford a definite starting point for the efficient worker from which he may strive to attain a higher standard of living. Thus the economic forces set in motion by minimum wage regulation will affect both employer and employees and produce a tendency for the elimination of waste, the tightening of discipline, increase in output, rationalisation of the industry and the maximum use of raw material and machinery.

4. The prevailing rates of wages.

252. In countries where labour is generally strong and well organized and the wage level is more or less uniformly high the principle of the prevailing rate is invoked to raise the standard of the worker in particular sections which happen to be unduly depressed. But in India with its low wage levels, weakly organized labour and standards of life that are well below a living wage the principle of the prevailing rate will be operative much to the disadvantage of all. In effect it will mean comparing one low rate with another and there will be no scope to pull up the sub-standard workers. The principle is helpful in the case of sweated industries but it cannot be used in the case of a major organized industry like the textiles, the wage rate in which is itself a most important component of the general level of wages. The principle however is capable of application to the problem of wages in the banking industry. It is correctly referred to as "industry-cum-region basis". We can draw helpful comparisons between wages in the major banks and those in small banks, between banks on the one hand and certain industries on the other, between the bank awards and the awards in insurance companies, oil companies and textile companies. The rates of pay in certain departments of Government such as the Posts & Telegraphs and in State Governments will also furnish material for the construction of a pay scale for the bank workmen. Above all we have the report of the Central Pay Commission which is now considered an authoritative and useful guide to problems relating to wage determination at least among Government employees. There are

*Muranjan, Modern Banking in India, page 522

†Quoted by Dr. Muranjan, Modern Banking in India, page 242.

several affinities between bank workmen and Government clerks, bank subordinates and Government menials. The Central Pay Commission had before them the very same clerical class and the class below it. Mr. Vimadalal developed the industry-cum-region principle with great force and wealth of illustration from recent cases.

253. Mr. B. B. Singh on 11th March 1947 gave an award in respect of 40 banks operating in the United Provinces. It was a large territory with a large group of banks reproducing conditions in India on a miniature scale. He divided the banks into three classes and devised pay scales for the clerical staff as follows:

"A" Class Banks—

- (1) Upper grade (for graduates): Rs. 75-5-120-E.B.-8-200;
- (2) Lower grade (for under graduates) Rs. 60-4-100-E.B.-5-150.
- (3) Head clerks, supervisors and departmental-in-charges: Rs. 120-8-200-10-300.

The learned adjudicator also awarded dearness allowance at the following rate:

"A" class banks: 30 per cent of basic salary with a minimum of Rs. 25 and a maximum of Rs. 50 per mensem. The dearness allowance was however raised subsequently by some of the banks of their own accord. By an interim award of the Sen Tribunal it was also raised to 40 per cent for some seven banks in Uttar Pradesh.

254. Mr. Justice Divatia on 9th April 1947 passed an award applicable to 30 banks in Bombay. He divided the banks into big and small according to working funds; banks with working funds of Rs. 15 crores and above were classified as big banks and those with working funds below Rs. 15 crores were classified as small banks. By a subsequent consent award certain banks in Ahmedabad were treated on the same footing both as regards classification and pay. The big banks and the small banks were given the following scales of pay respectively:—

- (1) Rs. 65-5-85-7½-130-EB-7½-160-10-190-EB-10-230-EB-15-275
- (2) Rs. 55-4-63-5-78-6-102-EB-8-150-EB-10-200-EB-12-236-250

255. The dearness allowance was fixed at 25 per cent. of salary with Rs. 30 as the minimum and Rs. 50 as the maximum for the big banks and 20 per cent of salary with Rs. 25 as the minimum and Rs. 35 as the maximum for small banks. Owing to the rising cost of living the Divatia award was terminated under the Bombay Industrial Relations Act by certain banks and by the employees of a number of banks. As on 31st January 1950, however, the dearness allowance in big banks was generally 40 per cent. of the salary with a minimum of Rs. 40 but with no maximum.

256. Mr. R. Gupta gave an award for the Bengal Circle of the Imperial Bank of India on 4th August 1947. He prescribed the following scales for the clerical staff:—

Grade II (Junior Scale):—Rs. 70—4—126—E.B.—130—5—175.

Grade I (Senior Scale):—Rs. 100—8—180—E.B.—10—250.

The dearness allowance by the subsequent award of Mr. S. C. Chakravarty was fixed at 40 per cent. of the basic salary, subject to a minimum of Rs. 50/-.

257. Mr. S. K. Sen in 1947 issued an award for the Calcutta branches of the Central Bank of India. He followed the Divatia scales of pay but he raised the minimum for dearness allowance to Rs 35 per mensem. He also granted a House rent allowance to suit three levels of pay: Rs. 15 for pay not exceeding Rs. 100, Rs. 20 for pay between Rs 101 and Rs. 200 and 10 per cent. of the pay where it exceeded Rs. 200. Here again as on 31st January 1950 the dearness allowance stood at 40 per cent of salary with a minimum of Rs. 40 and no maximum.

258. Mr. P. R. Mukerji in 1948 in an award adopted the Divatia scales of pay for the Hindustan Commerical Bank but limited the maximum pay to Rs. 260 and raised the minimum for dearness allowance to Rs. 35 per mensem.

259. In matters of education, intelligence, social needs, family responsibilities, standards of living and outlook on life there is a fair degree of similarity between the clerks that work in a bank and those that work in a Government department. The Government, it is said, has to be an ideal employer and treat the employees fairly and with due regard to their human needs. The Government, unlike the banker or the manufacture, is not wholly dependent upon periodical returns from the sale of goods or services. Government's income is

largely drawn from taxes and it is a vaguely indefinite fund susceptible of indefinite increase. Though there is some element of truth in these considerations the Government has to think in terms of national income, national outlay and what the country can reasonably afford to pay its workers. In Government service however there are certain special privileges like a pension on retirement with commutation facilities and certain concessions like free medical treatment, educational fee concessions and so forth. We may nevertheless take the Government pay scales as an indication, however rough, of how the clerical classes in general should be remunerated, taking into account the different circumstances and conditions of each province or State in India. The scale of pay for clerks in the several parts of India are given below:—

1. Bombay State :

City Scale	Rs. 75-5-140-E.B.-8-220.
Muffusil Scale	Rs. 46 or 55-3-85-E.B.-4-125-5-130

2. West Bengal :

Calcutta Scale : Lower Division	Rs. 80-4-160-5-180.
Upper Division	Rs. 150-10-370-15-400.
District Scale : Lower Division	Rs. 55-3-118-4-130.
Upper Division	Rs. 130-5-180

3. East Punjab :

First Class Offices	Rs. 60-4-80-5-120.
Elsewhere	Rs. 50-3-80-4-100

4. Madhya Bharat :

Departmental Offices :

Lower Division	Rs. 45-3-75.
Upper Division	Rs. 60-3-90.

District Offices :

Lower Division	Rs. 40-3-70.
Upper Division	Rs. 50-3-80.

5. Mysore :

The Secretariat :

II Division	Rs. 45-3-60-E.B.-4-100.
I Division	Rs. 60-5-90-E.B.-8-130-10-180.

6. Rajasthan :

Lower Division	Rs. 50-4-90-E.B.-5-120.
Upper Division	Rs. 75-5-120-E.B.-8-160-10-180.

7. Travancore-Cochin :

Clerks : 4 grades :

I	Rs. 30-3-45.
II	Rs. 45-5-75.
III	Rs. 80-5-120.
IV	Rs. 125-5-150.

8. Delhi :

Junior Clerks	Rs. 55-3-85-E.B.-4-125-5-130.
Senior Clerks	Rs. 80-5-120-E.B.-8-200-10-220.

9. Saurashtra Rs. 40-3-70-E.B.-5-120.

10. Orissa :

Secretariat :

Lower Division	Rs. 60-2-74-E.B.-4-100.
Upper Division II	Rs. 100-5-120-6-150.
Upper Division I	Rs. 155-10-205-E.B.-15-235.

District Offices :

Lower Division	Rs. 50-2-70-E.B.-2-90.
Upper Division	Rs. 70-2-80-4-100.

11. Hyderabad : (O.S. Currency) :

III Grade	Rs. 55-3-85-E.B.-4-125.
II Grade	Rs. 125-5-155-E.B.-7-200.
I Grade	Rs. 200-10-300-E.B.-15-375.

12. A. G. Central Revenues :

Lower Division	Rs. 55-3-85-E.B.-4-125-5-130.
Upper Division	Rs. 80-5-120-E.B.-8-200-10/2-220.

13. A. G. Posts & Telegraphs :

Lower Division	Rs. 55-3-85-E.B.-4-125-5-130.
Upper Division	Rs. 80-5-120-E.B.-8-200

14. Central Railway : A.

B.	Rs. 55-3-85-E.B.-4-125-5-130.
C.	Rs. 80-5-120-E.B.-8-160.
D.	Rs. 160-8-200-10/2-220.
E.	Rs. 200-10-300.
	Rs. 260-15-350.

260. Or again we may take a cross section of the wage map of India for clerical staff and compare the prevailing rates in a mixed bag consisting of industrial concerns, municipalities, insurance companies, government departments, Port Trusts and the Reserve Bank of India. The following table enables such comparison to be made in the case of Lower Grade Clerks.

Serial No.	Name of Institution	Initial start	D.A.	Other allowances admissible			Total emoluments received
				House Rent	Compensatory	Local	
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1.	Associated Cement Co.	75	63	...	...	...	138
2.	Bombay Municipal Corporation	60	45	...	...	...	105
3.	General Motors (India) Ltd.	85	60	...	...	...	145
4.	Imperial Chemical Industries Ltd.	75	64	...	...	...	139
5.	New India Assurance Co., Ltd.	70	58	...	...	...	128
6.	Tata Industries Ltd.	75	53	...	...	...	128
7.	Oriental Life Assurance Ltd.	75	49	...	...	...	124
8.	Government of Bombay	75	45	...	...	...	120
9.	Accountant General's Office, Bombay	55	50	15	7-8	...	127-8
10.	Bombay Port Trust	55	50	15	7-8	...	127-8
11.	Reserve Bank of India, Bombay	75	50	...	7-8	10	142-8

261. The Central Pay Commission in their report signed on the 30th April 1947 suggested twelve different scales for the clerical class (Class III) of Government employees. The class comprises the largest number of educated, skilled or trained employees. To provide for different categories of such employees and to meet the needs of various departments a large number of scales is suggested. The Government has sanctioned scale (a) for Lower Division and scale (e) for Upper Division. The scales are as follows—

- (a) Rs. 55-3-85-EB-4-125-5-130.
- (b) Rs. 60-5/2-75.
- (c) Rs. 60-4-120-EB-5-170.
- (d) Rs. 75-3-105.
- (e) Rs. 80-5-120-EB-8-200-10/2-220.
- (f) Rs. 100-5-125-6-155-EB-6-185.

262. They provided dearness allowance for different income groups according to every increase of 20 points in the cost of living index figures, assuming there was but one index for the whole of India. They recommended the grant of a housing or house rent allowance according to the pay of the clerks and

according as he lived in (a) Bombay and Calcutta, (b) cities of population over 5 lakhs and (c) cities with population over 1 lakhs. The lowest rate was Rs. 5 per month and the highest 10 per cent of pay. They also recommended a compensatory allowance for employees serving in Bombay and Calcutta ranging from Rs. 5 in the lowest income group to Rs. 20 in the highest income group.

263. In their estimation Rs. 55 and Rs. 90 would seem to represent a "fair minimum wage" at the initial stage for a working class family and middle class family respectively at a cost of living index of "about 260" which was later explained by them as at point 285 level as on January 1947. These sums would be inclusive of dearness allowance.

264. The prevailing rates of wages are now very much affected by the awards of Industrial Tribunals. These awards seem to set the standard in wages and allowances as they presumably take into account all factors that go into the making of scales of pay. It would be instructive therefore to study the industrial awards in conjunction with the bank awards. A summary of the more important awards is given below:

Name of concern	Reference	Pay	D.A.	Other Allowance	Total
		Rs.	Rs.	Rs.	Rs.
Cotton Textile Industry in West Bengal.	<i>Indian Labour Gazette</i> September 1948.	60 (non-matriculates)	35	...	95
		70 (matriculates)	35	...	105
Engineering Industry in West Bengal.	<i>Indian Labour Gazette</i> September 1948.	55 (non-matriculates)	35	...	90
		60 (matriculates)	35	...	95
		70 (graduates)	35	...	105
Gladstone Lyall & Co., Ltd.	<i>Calcutta Gazette Extra</i> , 24-4-1949.	70	55	...	125
Liverpool and London and Globe Insurance Co., Ltd. and Allied concerns.	<i>Gazette of India Extra</i> , 6-9-1949: page 1563.	70	55	...	125
Bombay Gas Co. Ltd.	1948 I.C.R. (Bom.) p. 781	75	50	...	125
Bombay Life Assurance Co., Ltd.	1949 I.C.R. (Bom.) p. 958	75	40	...	115
British Insulated Calender's Cables, Ltd.	1949 I.C.R. (Bom.) p. 909	75	63	...	138
Ford Motor Co. of India Ltd.	1948 I.C.R. (Bom.) p. 419	75	Govt. or existing scale which-ever is greater.	...	...
Greaves Cotton & Crompton Parkinson Ltd.	1948 I.C.R. (Bom.) p. 223	75	Govt. or Existing scale which-ever is greater.	...	...
		90 (Graduates)	...	...	...
Indian Vegetables Products, Ltd.	1949 I.C.R. (Bom.) p. 661	70	65	...	135
Premier Construction Co. Ltd. and Allied Concerns.	1949 I.C.R. (Bom.) p. 703	75	40	...	115
Standard Vacuum Oil Co.	1948 I.C.R. (Bom.) p. 736	75	60	...	135
Tata Oil Mills Co., Ltd.	Bombay Govt. Gazette dated 8-12-1949 pp. 2095-2162.	75	63	...	138
United Motors (India) Ltd.	1949 I.C.R. (Bom.) p. 253	70	Existing D.A. (plus Rs. 8)	...	...
Burmah Shell Oil Distributing Company of India.	1950 I.C.R. (Bom.) p. 259	85	85	...	170
Volkart Brothers	1951 I.C.R. (Bom.) p. 1126	75	60	...	135
Caltex (India) Ltd.	1952 I.C.R. (Bom.) p. 1556	80	95	...	175
Glaxo Laboratories Ltd.	1952 I.C.R. (Bom.) p. 1528	105	50	...	155

265. We may briefly review the recommendations of the more important Labour Committees on the subject of minimum wages for workers. The Kanpur Labour Inquiry Committee, 1938, suggested a minimum wage of Rs. 15 for the textile industry in Kanpur. The Bihar Labour Inquiry Committee, 1940, suggested minimum wages varying from Rs. 12 to Rs. 20 for different occupations. For purposes of comparison we may mention that the Rau Court of Enquiry constituted in 1940 to investigate the question of dearness allowance for railway employees fixed the subsistence wage at Rs. 35 for Bombay, the Industrial Tribunal, Madras, recommended in 1946 a minimum wage of Rs. 26 per month for textile workers in the Madras Presidency with reference to the pre-war level of prices; the Industrial Court, Bombay, awarded Rs. 30 as the minimum wage for textile workers in Bombay and Rs. 28 at Ahmedabad; the Calcutta awards recommended a minimum wage of Rs. 35 for the workers in the Electric Supply Company on a pre-war basis, and of Rs. 67-8-0 for coolies in the Tramway Company which works out to Rs. 22-8-0 at the pre-war level. Almost simultaneously with these awards came the Report of the Central Pay Commission, 1947, suggesting Rs. 30 as the minimum for unskilled employees and Rs. 55 for clerks in Central Government Service at a price level 60 per cent higher than the pre-war level. The U.P. Labour Enquiry Committee 1946-48 considered all the material on minimum wages before it and concluded thus: "We come to the decision that we cannot recommend a figure lower than Rs. 30." Their "minimum living wage at a subsistence plus level" was Rs. 40 per month for semi-skilled occupations, Rs. 50 for skilled occupations, Rs. 75 for highly skilled occupations; Rs. 40 for Second Grade Clerks and Rs. 55 for First Grade Clerks, all on the basis of pre-war level of prices.*

266. The pay scales which we have fixed are in conformity with the trends in wage fixation and, as a matter of fact, compare generally with the recommendations of several expert committees.

5. *The Capacity of the Industry to pay.*

267. It is obvious that what an industry can afford to pay in terms of wages depends entirely upon its productive efficiency. It is not merely the gross volume of production or the total output. We have to consider the various charges upon it. As the Bombay Textile Labour Inquiry Committee says, "The capacity to pay a wage cannot obviously be determined merely by the value of production. There is the important question of determining the charges that have to be deducted before arriving at the amount that can be paid in wages. The determination of each of a large number of charges involves difficulties, both theoretical and practical. Interest charges, remuneration to salaried staffs and managing agents, sales commissions, profits, all these cannot for any large organised industry be taken as pre-determined in a fixed manner. Neither is it to be expected that representatives of labour would accept without challenge the current levels of expenditure on these items—apart from the consideration whether the industry has been reasonably well-managed or not". The main criterion then is the profit-making capacity of the industry and where there are many firms of unequal size and efficiency the standard usually selected is the whole region or province. Industrial Tribunals and Courts in India usually examine the productive and profit-making capacity of the industry in a given region with a view to seeing whether it can bear the burden of a higher wage. As regards a true measure of the capacity to pay there are two opposing views: one is that a minimum wage, properly fixed, must be paid at any cost and where a minimum wage cannot be paid then the industry should be closed down; the second view is that before a fair wage, considering a fair wage also to be a minimum wage, can be thought of, there should be adequate provision for (1) a fair return to capital and remuneration to management and (2) a fair allocation to reserves and depreciation, renewals and expansion. The general principle enunciated by the Fair Wages Committee appears to be unexceptionable. They say, "We are of the view that in determining the capacity of an industry to pay it would be wrong to take the capacity of a particular unit or the capacity of all industries in the country. The relevant criterion should be the capacity of a particular industry in a specified region and, as far as possible, the same wages should be prescribed for all units of that industry in that region. It will obviously not be possible for the wage-fixing board to measure the capacity of each of the units of an industry in a region and the only practicable method is to take a fair cross-section of that industry.†

268. While the lower limit of the fair wage must be secured by prescribing a minimum, the upper limit can only be determined with reference to the capacity of the undertaking to pay. The worker must be paid at least a minimum wage

*First Report of the U.P. Labour Enquiry Committee, Volume 1. Part 1, pages 102 to 107.

†Report of the Fair Wages Committee, p. 15.

which will give him no more than "subsistence" and an industry which is unable to pay that much or rather that little has no right to continue in business for long. A sub-marginal undertaking which cannot afford to cater to the human needs of its labour force will thus go out of production and its place will be taken up by the more efficient units in the industry with a larger capacity to pay. At the same time we agree that nothing should be done to impair or imperil the prosperity of the industry as a whole. Careful examination should be made of the profit-margins, the net returns, provision for reserves and for the orderly growth of the industry. All wages and costs must in the last analysis come out of the gross yield of the industry and their scale has to be adjusted, subject to a minimum, to the capacity to pay. It is often assumed that high salaries for the top-ranking offices absorb too big a proportion of the returns in the banking industry. We have satisfied ourselves that while there is a case for the reduction in the salaries of officers like the Managers and Managing Directors of some banks, such a reduction will meet the ends of social justice but will not release funds that will make any appreciable difference to the wages of the workmen. The executive heads carry heavy responsibilities and the profits of the industry are largely an outcome of their ability, their capacity to take risks, their leadership and initiative, their managing talent, their insight and foresight. It is difficult for anyone to determine what is an adequate remuneration for them.

269. We are aware that banking facilities in India are not at all commensurate with the banking needs of the country. Adequacy of banking facilities depends not only on the number of offices but also the efficiency with which the banks are run. Making allowance for the fact that banks have a greater range and variety of functions to fulfil in an economically advanced country than in an underdeveloped country, we still find that banking service is anything but adequate in our country. The number of offices per million population is 230 in United Kingdom, 127 in U.S.A. and only 14 in India. There is also an unequal distribution over geographical areas. More than three-fourths of the number of banking offices are concentrated in the States of Bombay, Madras, Punjab, Uttar Pradesh, West Bengal and Travancore-Cochin. There are several parts of India like Assam, Orissa, Rajasthan, Saurashtra, Madhya Bharat and Vindhya Pradesh where banking facilities are woefully inadequate. There is at present only one banking office for every 70,000 of the population of India. In 1951 there were altogether 4,178 banking offices out of which 2,660 belonged to the scheduled banks and 1,518 to non-scheduled banks.

270. The Banking Companies Act of 1949 consolidates and amends the laws relating to banking companies. It presents the whole body of statutory law on the subject in a complete form. The rapid and ill-considered increase in the number of banking companies since 1939, the haphazard growth of banking institutions, the frequent frauds and failures, the safety of deposits and the needs of industry and trade gave a stimulus to the framing of the Act. The main provisions of the Act are designed to guide banking activity along right channels. Restrictions and regulations now applied to banks might hamper a robust growth and add to banking expenses but they will to a large extent prevent fraud, avert a crisis and secure an ordered progress of the banking industry. The banks will naturally consider an Award by an Industrial Tribunal as one more restriction and one more impediment in the way of their profit-making activity which according to them will adversely affect the expansion of the banking facilities, but the Award is intended to smooth out the vexed relations between the banker and his workmen and through securing their mutual co-operation and concerted action to promote the well-being and the profits-making capacity of the industry. The Award in a sense supplements the purposes of the Banking Companies Act, for a good workman and a good banker go well together.

271. There is no more reliable index of a bank's capacity to pay a fair wage than the volume of its earnings. The gross earnings have been rising ever since the war but gross expenses have also been rising. The following table shows the earnings and expenses, profits and allocations of the banks in India during the years 1948, 1949, 1950 and 1951.*

*Statistical Tables relating to Banks in India, 1951, (Published by the Reserve Bank of India). P. XX.

EARNINGS AND EXPENSES OF BANKS

(In lakhs of Rupees)

Number of Banks	Indian Scheduled Banks				Exchange Banks			A-2 Indian Non-Sch. Banks			
	1948	1949	1950	1951	1949	1950	1951	1948	1949	1950	1951
	71	73	71	72	15	15	15	59	69	64	59
1. Earnings	29,04.2	28,67.5	28,97.0	32,21.1	11,24.6	9,40.6	13,01.6	2,05.4	2,15.4	1,83.6	1,92.1
2. Expenses	21,05.9	21,11.9	21,80.5	23,89.2	6,62.7	5,92.3	7,21.2	1,58.3	1,64.3	1,48.3	1,58.7
3. Net Current Operating Earnings (1-2)	7,98.3	7,55.6	7,16.5	8,31.9	4,61.9	3,48.3	5,80.4	47.1	51.1	35.3	33.4
4. Net Recovery (+) or Depreciation (-)	+9.0	+32.4	-58.1	-81.0	-4.1	-14.1	-26.3	-3.6	-8.5	-9.5	-10.6
5. Net Profit	8,07.3	7,88.0	6,58.4	7,50.9	4,57.8	3,34.2	5,54.1	43.5	42.6	25.8	22.8
Earnings					<i>As percentage of Earnings</i>						
Bills and Loans	50.9	54.6	52.2	56.4	61.9	67.3	67.9	71.2	70.8	70.9	73.4
Government Securities	34.1	27.9	28.0	20.9	10.9	12.5	9.3	15.6	15.9	16.8	14.1
Other Investments	1.4	1.6	2.9	3.1	0.6	0.8	0.6	7.0	6.6	5.1	3.7
Other Earnings	13.6	15.9	16.9	19.6	26.6	19.5	22.2	6.2	6.6	7.2	8.8
Expenses											
Establishment Expenses	32.7	36.0	38.8	37.2	25.7	32.7	26.2	22.8	26.1	27.5	27.4
Interest on Deposits	24.0	22.4	21.6	21.0	5.6	7.8	7.8	34.7	32.2	33.7	36.0
Interest on Borrowing and other Accounts	2.1	2.7	2.0	2.5	16.7	8.0	9.6	6.4	4.5	4.7	5.6
Other Expenses	13.6	12.5	12.9	13.4	11.0	14.4	11.8	13.2	13.4	14.9	13.6
Net Profit	27.8	27.5	22.7	23.3	40.7	35.5	42.6	21.2	19.8	14.1	11.9
Allocations					<i>As percentage of Net Profit</i>						
Provision for Taxes on Profits	29.8	31.5	25.0	22.1	46.9	35.4	42.7	34.0	30.3	28.7	29.8
General Reserves	12.3	7.8	9.7	7.9	5.2	5.7	5.4	31.3	31.0	35.3	23.7
Allocation to Other Special Purposes	21.7	24.1	17.6	58.7	3.8	2.9	2.7	19.1	21.6	19.4	28.9
Dividend, Bonus, etc., to Shareholders	29.6	30.3	37.3	33.3	...	...	...	20.7	30.3	38.0	34.6
Employees' Share (Bonus) in the Profit	10.9	12.2	15.3	14.3	3.4	6.2	4.2	4.8	6.6	8.5	10.1

272. In 1951 the ratio of expenses to earnings was 74 per cent. in the case of the Indian scheduled banks and 55 per cent. in the case of the Exchange Banks. Net profits of the former amounted to 23 per cent. of their earnings and of the latter 43 per cent. The main factor in the expense ratio of several banks is undoubtedly the small volume of resources with which they have to operate.

273. On the earnings side loans and bills constituted the most important item, accounting for more than half the total income in the case of the Indian scheduled banks and nearly two-thirds in the case of the Exchange Banks. Earnings from Government securities, the item next in importance, showed a decline from 34 per cent. in 1948 to 21 per cent. in 1951 for Indian scheduled banks, reflecting the general tendency of the banks' investment portfolio in the post-war period. The earnings of exchange banks from Government securities have remained relatively small, on an average one-tenth of their total earnings.

274. On the expenses side, establishment costs and interest paid on deposits constitute the two major items. The establishment costs have risen considerably from 32 per cent. of total earnings in 1948 to 37 per cent. in 1951 in the case of the Indian scheduled banks while interest on deposits has declined from 24 to 21 per cent. The rise in the establishment costs in recent years is largely the result of indiscriminate branch expansion, increase in the cost of living and the application of new scales of emoluments through Bank awards. In 1951 establishment costs absorbed about Rs. 12 crores or 37 per cent. of the total earning of Indian scheduled banks.

275. The financial position as disclosed by current earnings and expenses is not unfavourable. The earnings of Indian scheduled banks rose by Rs. 3.24 crores to Rs. 32.21 crores in 1951. Their expenses also rose by Rs. 2.09 crores to 23.89 crores. Their net profit for the years 1948, 1949, 1950 and 1951 is put at 8.07 crores, 7.88 crores, 6.88 crores and 7.50 crores respectively. During 1951 and 1952 the banks had to provide for heavy depreciation in the value of investments.

276. In fixing wages for workmen in banks we have to take account of certain peculiarities of the banking industry. Management of assets, maintenance of cash, adjustment of maturities, conservation of profits, provision for reserves and stabilising of funds offer specific problems for the banker unlike the industrialist. Moreover in the interests of depositors and the business public the legislature introduces certain safeguards and applies certain restrictions. The nature of the shares to be issued, the proportion of capital to be subscribed, the proper agency for running the bank, the adjustment of profits towards reserves, the maintenance of liquid assets, the grant of a license to open a branch, the submission of reports and the arrangements for audit and inspection are all matters for strict regulation. They put the banking industry on a different footing from a manufacturing concern. Banks have to work in a more or less rigid framework set by law as well as the depositing and investing public which always plays for safety for its deposits and stability for its investments. All these come in the way of banks taking risks, exploiting opportunities, venturing in new fields of enterprise. The banks naturally resist attempts to raise wages and increase establishment charges because there are more or less definite limits to what a bank can afford to pay. They expatiate on the financial effects of the previous Bank awards. In 1950 the establishment expenses absorbed Rs. 11.2 crores or nearly 39% of the earnings as against Rs. 10.3 crores or 36% in 1949 and Rs. 9.05 crores or 33% in 1948. The increase is largely attributed to the increase in salary, dearness allowance and certain additional amenities accruing under the awards. In 1950 the net profit of banks declined sharply from Rs. 7.9 crores to Rs. 6.6 crores*. Thus in the case of the Central Bank of India which supplied us with statistics the increase in the wage bill including the amount of adjustment paid to workmen under the Sen Award amounted to Rs. 23,31,000 in the year 1950. The next annual increment which fell due in February 1951 meant a further burden of Rs. 12,50,000. The resources of the Bank were not rising, rather falling, due to a precipitate drop in the value of Government securities. There was a sudden depreciation to the extent of Rs. 3.5 crores, an amount almost equal to its assiduously built-up resources. To satisfy the "demands" of a workman fully the wage bill would have to be raised by Rs. 20.19 lakhs per month or Rs. 2.42 crores per year. Even if all the normal profits were diverted to meet the demand—in itself a counsel of despair for the Bank—there will remain quite a considerable deficit. The profits of the Central Bank were of the order of Rs. 1.23 crores in 1949, Rs. 1.01 crores in 1950, Rs. 1.25 crores in 1951 and Rs. 1.18 crores in 1952. Even a raid on hidden reserves and Contingency Accounts which are really held against sudden and unforeseen risks like a sharp fall in the value of investments will not produce enough to satisfy the demands over a period of years. The

*Trends and Progress of Banking in India 1950, p. 42.

following statement shows the increase in the emoluments of clerical and subordinate staff of the Central Bank of India if the workmen's demands were fully conceded.

<i>Emoluments per month for March 1952—</i>	<i>Rs.</i>	<i>Total Rs. -</i>
Salary	7,47,888	
Dearness Allowance	2,68,506	
Other payments including Bonus, Income-tax and Provident Fund	2,95,478	13,11,872

Emoluments per month according to the demands of workmen—

Salary	13,34,884	
Dearness Allowance	6,08,956	
Other payments including Bonus, Income-tax and Provident Fund	13,87,223	33,31,063

Increase in emoluments per month—

Salary	5,86,996	
Dearness Allowance	3,40,450	
Other payments including Bonus, Income-tax and Provident Fund	10,91,745	20,19,191

The increase in emoluments per year would be Rs. 20,19,191 $\times 12$ = Rs. 2,42,30,292

277. The net profit of a bank, other things being equal is a faithful reflection of the efficiency of management and the amount of earning capacity. The net profit is the balance of gross profits over and above the expenses incurred in the management of the business. Net profit of banks relatively to one another throw light on their scale of operation and the quality of their organization. They are a matter of deep concern to the shareholders, to depositors and to the business community who are the borrowers of funds.

278. Net profits are expressed as a percentage of the working funds—capital, reserves and deposits—which are employed to earn them. The following table furnished by the Bank of Baroda gives the net profit of several Indian banks for the year 1951.

A statement showing Paid-up Capital + Reserves + Deposits Profits and percentage of Profits for the year ended 31st December, 1951 of the various Banks.

Serial No.	Name of the Bank	Paid-up Capital + Reserves + Deposits	Profits as at 31-12-1951	% of Profits to Item No. 3
(1)	(2)	(3)	(4)	(5)
		(In lacs of rupees)	(In thousands of rupees)	
1	New Citizen Bank of India Ltd.	2,27	88	039
2	Travancore Forward Bank Ltd.	2,50	2,43	972
3	Canara Banking Corporation Ltd.	2,76	3,55	129
4	Bank of Maharashtra Ltd.	2,77	2,40	865
5	Hindusthan Mercantile Bank Ltd.	2,96	62	020
6	Bank of Behar Ltd.	3,90	5,02	128
7	Canara Ind. & Bkg. Synd. Ltd.	3,96	4,01	101
8	Hind Bank Ltd.	3,99	9,48	237
9	Palai Central Bank Ltd.	5,11	4,16	813

(1)	(2)	(3)	(4)	(5)
10	Travancore Bank Ltd.	5,19	5,76	1.10
11	Bank of Indore Ltd.	5,83	4,76	.816
12	Hindustan Commercial Bank Ltd.	6,38	11	.016
13	Bank of Jaipur Ltd.	6,53	4,59	.702
14	Union Bank of India Ltd.	6,64	8,92	1.34
15	Canara Bank Ltd.	7,93	7,39	.931
16	Devkaran Nanjee Bkg. Co. Ltd.	9,08	6,57	.723
17	Indian Overseas Bank Ltd.	10,07	11,46	1.13
18	Bank of Bikaner Ltd.	10,72	7,39	.689
19	Bank of Mysore Ltd.	11,15	21,85	1.95
20	Indian Bank Ltd.	19,00	16,82	.885
21	Allahabad Bank Ltd.	29,65	18,89	.637
22	United Commercial Bank Ltd.	32,18	35,03	1.08
23	United Bank of India Ltd.	33,00	21,01	.636
24	Bank of Baroda Ltd.	33,60	28,06	.835
25	Punjab National Bank Ltd.	53,69	9,28	.017
26	Bank of India Ltd.	61,61	79,55	1.29
27	Central Bank of India Ltd.	130,98	125,41	.957
28	Imperial Bank of India	242,88	130,08	.8

The Big Five of England showed a net profit rate on total resources as follows :—*

	1937	1938	1939
Lloyds Bank Ltd.	0.39	0.37	0.32
Midland Bank Ltd.	0.46	0.48	0.40
National Provincial Bank Ltd.	0.54	0.53	0.52
Westminster Bank Ltd.	0.43	0.39	0.36
Barclays Bank Ltd.	0.45	0.40	0.33

279. The financial position of the "A.2 banks" in India does not appear to be too strong. These are banks with paid-up capital and reserves of Rs. 5 lakhs and above, so-called because unlike their counterparts of A1 they have not been included in the Second Schedule of the Reserve Bank of India Act. Out of a total of 567 banks in 1951 as many as 70 belong to A1 and 72 to A2. Out of these 59 banks are included in the "Statistical Tables relating to banks in India". Their total earnings are Rs. 192 lakhs, their total expenses Rs. 158 lakhs, their net profit Rs. 2.2 lakhs or 11.9% of total earnings as against 23% for Indian Scheduled Banks and 42% for Exchange Banks. Despite a reduction in their number their current expenses rose by Rs. 10 lakhs, of which the establishment costs accounted for Rs. 3 lakhs. The ratio of net profits to total earnings actually declined from 14 to 12 per cent. These are obviously banks that have definite limits to their paying capacity.

*S. K. Muranjan, Modern Banking in India, p. 238.

280. Special treatment by way of reliefs for small banks was pressed before us by Mr. Asayekar, Mr. Tllak and Mr. Tanubhai Desai. We were impressed with the difficulties that small banks have to face and we wish to keep their wage bill as low as possible consistent with the legitimate interest of their workmen. In our classification we have devised an additional category for banks with working funds below Rs. 1 crore, and have made several adjustments regarding allowances and retirement benefits. We recommend however that the more prosperous among these small banks should resist the temptation to convert the minimum that we have prescribed into a maximum beyond which they will not go and thus be content to accept for their employees a permanently low status.

281. The Rural Banking Enquiry Committee state that high operating costs, largely a result of the enforcement of awards, will militate against the extension of banking facilities in a country where as yet the banking service is poorly developed. In their report they say, "The opening by banks of new branches in semi-urban and rural centres is found to be difficult because of the high operating costs in relation to the earning capacity of such branches..... The enforcement of awards of Industrial Tribunals is likely to result in salary scales, fixed largely with reference to conditions obtaining in large urban centres, being made applicable to the smaller branches, and will thus make the maintenance of such branches unremunerative for banks. Costs of living in the smaller towns would be lower than the larger cities, particularly for locally recruited staff; in any case, it will have to be recognised that the salaries which banks could pay to their staff would have to be related to the paying capacity of the areas concerned, as no bank could be expected to maintain indefinitely branches which are uneconomic, simply because its overall profits are good, or its income at other offices is considerable."* The classification of banks as well as of areas in which they operate is intended to meet the sort of situation envisaged by the Committee. We have adjusted the scales of pay and emoluments, the retiring benefits, the various allowances and the conditions of work and service to suit the circumstances of banks having offices or branches in semi-urban or rural centres.

282. The Indian banking system as a whole continues to be sound. The methods of operation and the standards of working are approaching the accepted canons of good banking. The banks are showing a willingness to put their house in order and implement the advice tendered by the Reserve Bank. "Constant vigilance by the Reserve Bank and sustained efforts on the part of the banks concerned to remove defects have tended to strengthen individual banks, and to inspire confidence in the banking system as a whole. The partial merger of the Bharat Bank Ltd with the Punjab National Bank Ltd., and the amalgamation of four banks in West Bengal leading to the formation of the United Bank of India Ltd. may be cited as outstanding examples of attempts to safeguard the position of the depositors. Reform in regard to methods of working and banking practices is, however, a slow process, especially as the defects are largely due to lack of suitable trained personnel with the requisite experience for management of banks. It is difficult to assess qualitatively the results of systematic bank inspections, though they have undoubtedly contributed greatly to the stability of the banking structure during the last two years".† It is against such a background of improving banking traditions and increasing earning capacity that we have devised the pay scale and the various emoluments that go with it.

283. We do not wish to kill the proverbial goose that lays the golden eggs for banks; we do not even desire in any way to hurt the capacity of the bird to replenish the banks' larder. The issue really is, what emoluments can the banks bear now and in the years to come when the pecuniary benefits come into full operation. In other words, what is the permissible expense ratio? Aggregate resources per bank, per banking office, per employee, per depositor all enter into the paying capacity of the institution. Establishment costs consisting of salaries for officers and wages for workmen and the perquisites or amenities that go along with them come to near 70 per cent. of the total operating expenses. There has been a rising trend of establishment costs in India as well as in foreign countries since 1946. If these costs are pushed much further, it is contended, there is the risk that banking standards and facilities may deteriorate e.g., it may force up the ratio of advances and reduce the liquidity of assets; it may raise the rate of interest, high as it is, on loans to borrowers; it may push up the rate of service or remittance charges to customers; it may drive banks away from loans, discounts and advances to investments with the consequent risk of heavy depreciation in market values, especially in the case of long-dated securities; it may cause frequent inroads into Secret Reserves and Undisclosed Contingencies until a time

* Report of the Rural Banking Enquiry Committee, 1950, p. 60.

† Report of the Central Board of Directors, Reserve Bank of India, 1952, p. 22.

get exhausted and there is nothing for the rainy day; it may hasten the liquidation of banks already near the edge of disaster or hasten the process of closing offices and branches which may become unremunerative. Substandard security, substandard deposit, substandard account, substandard advances, substandard employees, substandard investments may be the accumulating effect on banks whose resources are strained to utmost and whose capacity to meet the ever rising establishment costs is limited.

284. These are real dangers, no doubt. We have attached sufficient importance to them. It is not our purpose to push the scales of pay, allowances and retirement benefits to the utmost limits of a bank's earning capacity or even to go beyond it. We have advisedly classified banks into four categories according to their working funds and adjusted the scale of emoluments to the earning capacity of banks in each category. We have also divided the country into three regions and made a further adjustment in emoluments to suit the banks in each region. We have not only kept their working funds (capital, reserves and deposits) in view but also their total earnings and total expenses, their rate of earnings, their expense ratio and their net profit rate. We have bestowed particular attention on "small banks" and on those banks like the Displaced Banks that need special treatment. If the Indian banks find themselves in financial straits the blame cannot be laid at the door of "workmen's emoluments". The reports issued by the Reserve Bank abound in suggestions whereby they can remedy their defects, improve their standards, raise their managerial efficiency and add to their earning capacity. We have taken care to see that our pay scales and the rest of the emoluments are well within the bank's capacity to pay. A contented workman is also an efficient workman and it is not too much to hope that through that contentment and efficiency the banks may find a solution for several of their difficulties.

CHAPTER XIII

Item No. 12: Adjustment to the new pay scales

SECTION I—General

285. Item 12 of the dispute as set out in Schedule II is as follows:—

"Rules for fitting the existing staff into the revised scales of pay".

286. The employees generally asked for 'point-to-point' adjustment i.e. the placing of each employee at that stage in the new scale to which he would have risen by reason of the length of his service if he had entered service on the new scale. Mr. Phadke in particular stressed this point in a very vigorous argument. There is no demand for arrears of salary for past years on the basis of point-to-point adjustment. What is demanded is really that the current and future pay and emoluments should be on the basis of this kind of adjustment. Even so, the banks have opposed this demand. Their main grounds are:—Point-to-point adjustment has never been given in any adjudication. The burden on banks will become suddenly heavy. Further, in the banking industry, at least for banks in Part 'A' States, there have been awards since 1946 as a result of which new scales of pay have come into operation and adjustments have been made with reference to such scales of pay.

287. Mr. Chari who appeared for the majority of the bank employees frankly conceded that point-to-point adjustment in the strict sense of the term was never given by any of the awards. He did not really press for the same. Mr. Phadke on the other hand insisted on point-to-point adjustment being provided for. His main argument is that otherwise the new wage structure which is being constructed on the basis of meeting the substantial needs of the workman at different stages of his service would be purposeless if it is not made to apply to all the existing employees most of whom have already put in sufficiently long service. No doubt, there is a good deal of force in his contentions. At the same time, the arguments against the adoption of such a scheme are entitled to greater weight. The question has been discussed, if we may say so, with admirable thoroughness and fullness, in paragraphs 113 to 117 of the Sen Award where the arguments *pro* and *con* are fully set out. It is needless to travel over the same ground again. We agree with the conclusion that a compromise between the two methods advocated by the parties should be adopted and rules laid down in consonance with the directions which have been approved by the Labour Appellate Tribunal.

288. Mr. Chari was content to adopt generally the detailed rules laid down by the Sen Tribunal with reference to this question, but he wanted modifications. He suggested that the spread over to cover the gap between the present emoluments and the adjusted emoluments in the new adjusted scale should be considerably diminished, and that in view of the fact two years had elapsed since the

Sen Award was given, not more than one further year should be permitted. Secondly, he wanted that all efficiency bars whether in the existing scales or in the new scales to be fixed by the award should be ignored. He gave instances to show how banks in the matter of adjustment applied the efficiency bar at the end of 17 years of service as fixed by the Sen Award to persons who had crossed that line and put in more than 17 years of service. He suggested that the total length of service irrespective of designation of workmen should be taken into consideration. He stressed that cases of special promotions or special initial start should be recognized and should continue to be reflected in the new scale. Finally he stated that adjustment should be made as from 1st January 1950 so that there may not be disputes between banks and workmen any further. He admitted that the adjustment need not be with reference to the Sen scale of pay etc. which has been continued under the freezing provisions of the Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 but it should be at least on the "pre-Sen scale of total emoluments".

289. Mr. Phadke suggested that no employee should get less under the new award than what he would be getting at the time when it comes into force, and categorically stated that even the Sen scales of pay and allowances which were continued as an interim measure should not be prejudicially affected. He also wanted that all adjustments should be made immediately and not allowed to be spread over for a number of years. He filed a set of rules to be considered by the Tribunal.

290. The banks drew our attention to the scheme adopted by the Central Pay Commission and also to several decisions of industrial tribunals including decisions of the Appellate Court where all that has been recognized as proper was only to give a certain weightage for previous length of service, by awarding a few increments varying with years of service; it is generally one increment for every three years, but subject to a maximum limit of three. In one exceptional case one increment for every five years was given with no ceiling. It was also argued that the reference before the Tribunal related to fitting the workmen in the revised scales of pay only and all questions of total emoluments as distinguished from scales of pay were outside the reference. Four main principles were suggested for drafting a few rules viz. (1) the employee should be fitted in the new scale of pay either at the same stage or one immediately above, (2) he may be granted one increment either for 3 or 5 years of service but a ceiling to increments either in amount or number of increments should be fixed, (3) in no case should this method of adjustment give more than what point-to-point adjustment gives, and (4) the present basic pay should not be reduced and the maximum in the new scale should not be exceeded. On behalf of major banks a scheme of adjustment was filed before us. On behalf of the Imperial Bank of India a special point was urged that any allowance which had been specially given for any post of higher responsibilities in the previously existing scale should be deducted, particularly if our proposed scale contemplated giving allowances also for the holders of such posts.

291. Mr. Phadke raised a special point with reference to certain former employees of Thos. Cook & Son who were taken over into the service of Grindlays Bank Ltd. He contended that their service in both the banks should be considered for purposes of adjustment. Mr. Palkhivala was able to convince us that there was no justification for this. It is not correct to say that all the employees of the banking department of Thos. Cook & Son were taken over. There is really no continuity of service. The provident fund amounts which they had earned while in service of Thos. Cook & Son were received by them. We are satisfied that their period of service in Grindlays Bank Ltd. alone should be taken into account in the matter of fitting them into the new scales of pay.

292. We have carefully considered all the different aspects of the question. We give the following directions:—

SECTION II—For workmen who entered service of the bank before 31st January, 1950.

(1) The workman's basic pay as on 31st January, 1950 shall not be reduced in any case.

(2) Subject to rule (1) the adjusted basic pay in the new scale shall not exceed what point-to-point adjustment would give him or the maximum in the new scale.

(3) In the matter of adjustment all efficiency bars, whether in the previously existing scales or in the new scales fixed by us should be ignored.

(4) Subject to rules (1) to (3) a workman's basic pay in the new scale shall be fixed in the following manner:—

(a) A workman shall first be fitted into the scale of pay fixed by our award (herein called the new scale) by placing him at the stage in the new scale equal to, or next above his basic pay as on 31st January 1950, in the pre-Sen scale then in force (herein called the existing scale).

(b) To the basic pay into which he is fitted under clause (a) annual increment or increments in the new scale as from that stage onwards should be added at the rate of one increment for every completed three years of his service in the same cadre as on 31st January 1950.

(c) Such increments shall not however exceed four in number. (In our opinion 12 years of war and postwar service from about 1939 will be covered by this weightage which we think is sufficient).

(d) After adjustments are made in accordance with clauses (a), (b) and (c) *supra* two further annual increments in the new scale will be added thereto for service for the two years 1951 and 1952. In addition the workman will be entitled to draw his normal increment for 1953 on 1st April 1953. Thereafter, each succeeding year's annual increment shall take effect as and from 1st April of that year.

(5) (a) Where a workman received an additional increment or increments in his basic pay either at the initial start or by way of special promotion later on, his length of service will be taken to be the period which would ordinarily be necessary to bring a workman with the usual initial start without special promotion to that basic pay as 31st January 1950, in the existing scale (fractions being rounded off to the nearest integer).

(b) Similarly where a workman's increment or increments have been withheld prior to 31st January 1950 the length of service in his case will be calculated by subtracting the number of years for which the increments have been withheld.

(c) In the case of former employees of the banks in Pakistan branches re-employed in India the aggregate of actual years of service in both areas as adjusted under rule 5 (a) or (b), as the case may be, will be taken to be the length of service.

(6) The circumstance that a workman has already attained the maximum of the existing scale and has been at that maximum for some years shall not in any way affect his right to have his basic pay adjusted in accordance with the above directions.

SECTION III—For workmen who joined service of the bank after 31st January, 1950.

(7) The workman shall be fitted into the new scale of pay on a point-to-point basis as though it had been in force since he joined the service of the bank, provided that his adjusted basic pay is not less than what it would be under a point-to-point adjustment on the corresponding 'pre-Sen' scale.

SECTION IV—General rules applicable to all workmen

(8) Even after final adjustment as above, the efficiency bar in the new scale may apply but only if the stage for applying it has not been already reached.

(9) Wherever we have provided elsewhere in this award for a special allowance or increments for specified categories of workmen those allowances or increments are also to be given in addition to their adjusted basic pay, dearness allowance and house rent allowance. Where however in any existing scale graduates and/or Banking Diploma holders have been started on a higher scale of basic pay (as for instance Divatia's Bombay award, B. B. Singh's award) additional increments granted for graduates as per our award need not be given again.

(10) Wherever as a result of the adjustment as directed above the total emoluments under the new scale made up of basic pay, dearness allowance, special allowance and house rent allowance fall short of the total emoluments of any workman under the above heads as on 31st January, 1950, the difference shall be given to him by way of an additional allowance (to be called "temporary adjustment allowance") until such difference is fully absorbed by future increments in the new scale. (The right of any bank to stop annual increments as laid down in an earlier chapter is not to be affected by this rule.)

(11) A workman shall continue to draw his emoluments as at present existing and at the same rates for service up to and inclusive of 31st March 1953. No bank shall claim any refund of any portion of any emoluments paid to a workman for service up to and inclusive of 31st March, 1953.

(12) The adjusted pay shall have effect from 1st April, 1953

(13) The banks shall have a maximum period of four months' time after the publication of the award to implement the scheme of adjustments.

(14) (a) Any excess payments for service after 1st April 1953 that may be made pending adjustment may be deducted by the banks after adjustment in equal monthly instalments spread over the remaining months of the calendar year. Such excess payments shall be calculated only with reference to the total emoluments made up of basic pay, dearness allowance, special allowance and house rent allowance.

(b) Any excess payment and credit in relation to provident fund contributions after 1st April 1953 whether by the workman or by the bank shall be adjusted by banks during the year.

CHAPTER XIV

Item No. 19: Working hours and overtime

293. Item 19 in schedule II to the reference is "Working hours and overtime".

294. This item of dispute assumed great importance during the arguments before us. The Sen Award fixed the actual hours of work for the clerical staff at 6½ hours a day on week days (excluding Saturday) and 3½ hours on Saturday. For the subordinate staff the corresponding hours of work were fixed at 7½ hours and 4 hours respectively. This was exclusive of luncheon recess which was to be not less than half an hour on week days there being no recess on Saturdays. The banks were given liberty to fix at their discretion the actual hours of the day during which work was to be done. Some months after the invalidation of the Sen Award, the banks increased the working hours and restored the pre-Sen hours of work. This caused great resentment amongst the workmen. It was vehemently alleged on their behalf that it was a breach of an understanding which the bank managements had agreed to, viz. not to increase the working hours pending an award by another Tribunal. The banks denied equally vehemently that there was any such understanding. Reliance was placed upon the extract from the speech of the Honourable the Labour Minister on the floor of the Parliament in proof of the alleged understanding. The banks relied upon some correspondence to show that they had protested against this statement and denied its accuracy. It is not now necessary to go into this matter.

295. Generally speaking, the demand on behalf of the workmen is that the Sen Award hours should be restored. The banks want to increase the number of hours. Shri R. Gupta in his award regarding the Imperial Bank of India fixed 10 A.M. to 5 P.M. with half an hour's recess for week days (excluding Saturdays) and 10 A.M. to 2 P.M. on Saturdays as working hours. This was followed in Shri S. K. Sen's Award regarding the Calcutta branches of the Central Bank of India. In the United Provinces, Shri B. B. Singh's Award prescribed 9.30 A.M. to 5.30 P.M. with an hour's recess on week days (excluding Saturdays) and 9.30 A.M. to 4.30 P.M. on Saturdays with half an hour's recess as working hours. Shri B. B. Singh had also remarked that many banks did not observe any strict hours of work and a good many clerks had to stay up very late and this state of affairs was not conducive to the health and efficiency of bank employees. Shri R. Gupta also had made similar observations. The Central Pay Commission has stated in paragraph 96 of their report that "normal office attendance might reasonably be fixed at 38½ hours a week so as to provide for 6½ hours of actual work on each week day after allowing half an hour for lunch and 3½ hours of work on Saturdays".

296. After the Sen Award was given and during the time when it was in operation the banks reduced the business hours for the public by half an hour on week days and by one hour on Saturdays. The Saturday clearing was also stopped. This step was necessitated, according to the banks, because of the reduction of working hours as per the Sen Award. The workmen contended that there was no justification at all for this reduction and that some banks did not feel the necessity for his reduction which showed that the real reason lay elsewhere. According to them it was a move on the part of most of the banks to create prejudice against the Sen Award which was not acceptable to them. It was further pointed out that the Gupta Award fixed 36½ hours a week which was followed in Calcutta and the Bengal Circle by the Imperial Bank of India and the Exchange Banks and there was no curtailment of business hours for the public by reason of the working hours as fixed by the Gupta Award. The increase in the working hours after the Sen Award was declared void—had been large particularly in out-of-the-way places where there was no effective trade union resistance. There was no uniformity about the hours of work either. These criticisms have been levelled against the banks by the workmen.

297. In our interim award on the application for interim relief we dealt with the matter fully and we stated our conclusions as follows: —

"We are of opinion that taking all the circumstances into consideration a maximum limit of 39 hours per week made up of 7 hours per week day and 4 hours per Saturday exclusive of recess should be fixed as applicable to all banks purely as an interim measure, pending the determination of the question by our final award..... As regards subordinate staff, we fix the maximum number of working hours at 42½ per week....."

This order was later on clarified in some respects by our order dated 8th September, 1952.

298. The question has been argued before us once again and we have now to reconsider the matter for the purposes of our final award. Statements have been filed before us showing the hours of work in various commercial concerns in the City of Bombay for purposes of comparison.

299. It is necessary to point out that the nature of the work in banks differs in some important respects from the usual type of work in Government offices and other commercial concerns. In banks it is necessary that a day's work should be finished in the course of the day itself with respect to most of the transactions. A good part of the business cannot be left over to be done leisurely in the succeeding days. The accounts of the constituents should be posted, checked and verified before the next days' work commences. Similarly, cash balances have to be checked and verified at the end of the day. Parties have to be intimated promptly with notices of returned cheques received from the Clearing House. These and allied matters necessitate that the day's work should be finished before the clerks are permitted to leave office. It is necessary to see that the clerical staff do not down their pens immediately on the close of the actual hours of work fixed when the day's work in respect of the above matters is not over. This consideration must be kept in view.

300. Again, the nature of the work in banks requires that overtime work should be done on several occasions particularly during periods when accounts have to be closed, yearly, half yearly or quarterly, or even fortnightly. Returns and statements have to be sent to the Reserve Bank of India, and prepared for other purposes also at periodic intervals. Immediately after holidays and sometimes on the day prior to holidays there is heavy rush of work in banks. These factors necessitate that clerks may have to stay and do overtime work in some departments and on several occasions. It would be far too much of a financial burden to insist on banks increasing their staff to meet this kind of work which is somewhat intermittent in character and varying as occasion needs. The legitimate way of providing for these circumstances is to recognize the obligation to do overtime work, of course, within stated limits and to provide for extra payment for such kind of work. This has been the well recognised practice and is sanctioned by several awards of industrial tribunals and of the Labour Appellate Tribunal as well.

301. There has been a complaint on the part of the banks that the fixation of hours as per Sen Award followed by directions for overtime payment at double the usual rate of pay has induced the workmen to adopt a deliberate policy of "go-slow" with a view to earning overtime payment even when they could finish the day's work well within the time if so minded. The workmen have challenged this allegation as an unmerited slur on them and have pointed out that the work in banks is a kind of chain work and therefore the employees would not permit any one of them to go slow as that would affect the others as well and necessitate their staying longer in the office. It is pointed out that actually what should be the normal day's work has not been defined with precision or laid down authoritatively, and it is urged that in fact the workmen are really made to work more than what the day's work should be, the staff employed by the banks in many cases not being sufficient to cope with the work. It is not possible, on the materials before us, to affirm or deny the truth of these allegations. It is necessary that the banks should examine the position carefully and quantify the normal day's work properly and have such staff as is required to do that work within the fixed hours of work to be laid down by us. At the same time, the provision for overtime payment which we propose to make should not result in workmen going slow and prolonging their work for the purpose of earning overtime payment. This is best done by providing for a short interval of time immediately after the close of the normal day's work for which period there is to be no overtime payment. The cushioning effect of such interval will obviate the dangers apprehended. This principle is in accord with the trend of recent awards by industrial tribunals [See 1952 (2) L.L.J., 189 and 1951 (2) L.L.J., 387 at page 400].

302. On behalf of the workmen it was stated that they were not anxious to do overtime work or to receive overtime payment. The banks contended that this was not a sincere statement and that many employees were anxious to earn a little more by doing overtime work. For reasons stated by us already we recognize the need for compulsory overtime work with a suitable provision for limiting it and sufficient compensation for such extra work.

303. Shri R. Gupta in his award relating to the Imperial Bank of India did not provide for overtime work and overtime wages beyond the 36½ hours of actual work fixed by him. Shri B. B. Singh provided for what he called a "closing allowance", for detention beyond normal hours and also a "special allowance" for work done during holidays. The Sen Award provided that no employee should be required to do more than 90 hours' overtime work or with his consent more than 120 hours' work, in any calendar year, the meaning to be attached to overtime work being such work as was in excess of the amount of work fixed by them subject to any provisions specifically mentioned in that Award. For such work the employee was entitled to be paid at double the rate of ordinary pay.

304. We have carefully considered all the aspects of the matter in the light of the principles and the precedents referred to already. Our own conclusions are as follows and we direct accordingly:—

- (1) For the clerical staff the actual hours of work exclusive of recess period on week days (excluding Saturdays) shall not exceed 6½ hours a day and 4 hours on Saturday.
- (2) There shall be a recess for lunch which shall not be less than half an hour and not more than an hour for week days (excluding Saturdays) subject however to the requirements of any statutory provisions, like Shops and Commercial Establishments Acts. Primarily it will be for the workmen to decide the actual length of the recess within the limits fixed by us and a majority decision of the workmen in any branch or establishment shall be adopted in case of a difference of opinion with the management.
- (3) Banks can ask the workmen to do overtime work beyond these stated hours but subject to a maximum of 90 hours in any calendar year. With the consent of the workmen such period may extend to 120 hours. Normally such period of overtime work shall not exceed 2 hours on any working day without the written consent of the workmen, except in cases falling under clause (6).
- (4) For the first half an hour of overtime work there shall be no payment and for every completed 15 minutes work thereafter the workmen will be paid at the rates laid to be laid down by us.
- (5) For the purpose of calculating payment of overtime work, each working day shall be taken as a distinct unit by itself.
- (6) For work done during public holidays, declared as such for half yearly or yearly closing of bank accounts, overtime payment, if any, shall be only for hours of actual work exceeding 6½ hours if it is a week day or 4 hours if it is Saturday. For other holidays during which overtime work is asked to be done, payment shall be made for the whole period of such work.
- (7) These directions shall apply to the subordinate staff also with the modification that they will be required to attend duty half an hour earlier and stay half an hour later than the normal working hours fixed for the clerical staff.
- (8) Part-time employees, as well as watch and ward staff, bank employees engaged in domestic service, gardeners, sweepers, godown keepers engaged solely for that work are excluded from the scope of these directions.
- (9) The provisions of the local Shops and Establishments Acts in force in various States which are or may be made applicable to banks subject to such exemptions as have been provided for therein shall, of course, govern the parties to this reference. If the above directions as given by us come into conflict with any such provisions or are repugnant to the same, then to the extent of such repugnancy or inconsistency with statutory provisions and to that extent only these directions must give place to the statutory provisions. Wherever it is open to employers to agree to give the workmen any benefit over and above what the statutory provisions compel them to do,

these directions by us can legally be given and are within the powers of industrial tribunals. During the discussions before us though a vague reference was made to the provisions of Shops and Establishments Acts in general, no such particular conflict or inconsistency was pointed out and argued. The range of discussions before us was such that both parties knew fairly well what the award on this point was more or less likely to be. We indicated sufficiently though not very precisely what the award was likely to be. Even then none of the parties could see any possible repugnancy or conflict with statutory provisions.

- (10) The existing practice in the different banks will cease to be applicable from the date when this award comes into force and the above directions will apply thenceforth.

305. It remains for us to indicate what should be the proper scale of payment for overtime work. The Sen Award, as pointed out already, ordered payment at the rate of twice the ordinary rate of pay meaning thereby the aggregate of basic pay and special allowances and officiating allowance as mentioned in that Award. Dearness allowance was not included. We think, on principle, dearness allowance ought not to be excluded. Sometimes the amount of dearness allowance exceeds even the basic pay or pay as defined by the Sen Tribunal. Payment of overtime work must be something over and above what the payment for regular work would come to. Where dearness allowance exceeds "basic pay" or "pay" even twice the rate of pay will not be equal to the amount payable for regular work. The proper thing therefore is to link overtime payment not merely to basic pay but to the emoluments consisting of basic pay, special allowance, if any, officiating allowance, if any, and dearness allowance. Allowances like fuel allowance, hill allowance etc., of course, will be excluded. We fix accordingly payment at the rate of one and a half times the emoluments made up of basic pay, special allowances provided for higher or special types of work, officiating allowance and dearness allowance. It was contended before us that where the initial cushioning period of half an hour is exceeded and the first period of 15 minutes' overtime work therefore is completed, the payment should be made for the entire period inclusive of the initial cushioning of half an hour. We think that there should be no payment for work during the first half hour immediately after the close of the normal working hours for reasons stated above. Overtime payment will therefore be only for every completed period of 15 minutes after the first half hour is over. With a view to discouraging excessive over work we direct that payment for overtime work for every quarter hour beyond the first four quarter hours, after the initial half hour cushioning period, shall be at the rate of one and a half times as aforesaid together with an additional 20 per cent. for work during such extra period.

306. We have increased the hours of work on Saturday from $3\frac{1}{2}$ to 4. It is necessary to do so because the curtailment of Saturday clearing and the reduction of banking hours for public business led to great inconvenience to commercial bodies and to the public. There were representations to the effect that the pre-existing facilities should be restored. It was contended before us that in Calcutta even with $3\frac{1}{2}$ hours of work Saturday clearing was maintained. We find however that the volume of work with respect to clearing house cheques is very much greater in Bombay than in Calcutta. From the statistics published by the Reserve Bank of India, it appears that very nearly 2,11,000 cheques are cleared weekly in Bombay as against about 1,24,000 in Calcutta. In Bombay clearing house members and sub-members number about 50 whereas in Calcutta they number only about 37. In Calcutta only cheques which are received too late to be cleared on Friday are cleared on Saturday. Cheques received on Saturday are sent for clearing on the following Monday, whereas in Bombay even cheques received between 10 A.M. and 10-45 A.M. on Saturday are cleared the same day. In Calcutta, the Mercantile Bank of India and the National City Bank of New York which worked only $3\frac{1}{2}$ hours found the time insufficient with the result, it is stated, that these banks did not attend to clearing on Saturdays. We are satisfied that $3\frac{1}{2}$ hours work on Saturdays is insufficient if the Saturday clearing has to be properly provided for and if the usual facilities for the public should be available as they have been accustomed to for a long time. We have, therefore, no hesitation in increasing the working hours from $3\frac{1}{2}$ hours to 4 hours on Saturdays which we consider as the safe minimum required for such purposes. We may, at this juncture, state that the hours of normal work as now fixed by us would not justify any reduction of banking hours for the public as was done by the banks after the Sen Award.

307. We also make it clear that if in any bank the present hours of work are less than those we have laid down it would have the right to raise their number to the level prescribed.

308. The banks contended before us that they should have the liberty to fix at their discretion the actual timing of work provided the maximum number of hours fixed by us are observed. The workmen stoutly opposed this proposal and vehemently contended that there should be no "staggering" of working hours. In our opinion, the banks must have the liberty of action claimed by them. Many types of work in a bank cannot be carried within a system of fixed hours, say, between 9 A.M. to 5 P.M. For instance, the work of cash-book writers, day-book writers, supplementary book writers, internal audit, pass-book writing etc. can conveniently be attended to only at different times. Despatchers will have to take up work in connection with posting of letters only after they are signed by officers. Sweeping and clearing of bank premises or opening and locking of safe vaults may have to be done even before or after such prescribed working hours. Workmen in charge of safe vaults may have to remain beyond such hours to suit the convenience of customers. Godown deliveries may have to be made outside such hours even as desired by the borrowers. To lay down a general rule fixing the actual timing of office hours as distinct from the total number of hours for a day's work would be to ignore the realities of the situation and the exigencies of bank work of various types. It is, therefore, necessary to recognize the right of bank managements to relax the rigidity in the observance of the usual hours of work wherever it is necessary or convenient, or desirable to do so. The claim of the workmen, therefore, cannot be sustained.

309. We wish to make it clear that in providing for a cushioning period of half an hour immediately after the closing of the normal hours of work for which there is to be no overtime payment it is not our intention that this half an hour should become really a normal extension of the actual hours of work. While it is true that the normal day's work should be finished within the time fixed and the employee cannot leave the work unfinished the moment the normal hours of work are over, it will not be right for the banks to allot to workmen more work than could legitimately be done in the normal way during the 6½ hours or 4 hours which we have fixed. The banks have complained before us that while the hours of work are being fixed and overtime payment is also being provided, suitable safeguards are not laid down for ensuring that the workmen do the day's work within such hours. The materials before us do not enable us to quantify the volume of work that should be done during the normal working hours fixed by us. Further, such volume of work will depend upon a variety of circumstances dependent upon several factors in the actual conduct of a bank's business in its varied departments of activity. It will also vary with the bank's size and resources and the volume of business that is done at several branches and by different kinds of banks. We have, therefore, not attempted that task. It must be for the bank managements to examine the position and to decide upon the volume of work and the necessary staff adequate to cope with it within the normal hours of work except on special occasions to which reference has been made earlier. If a workman is found to be habitually dilatory or negligent in doing such work the remedy for it can only be the taking of disciplinary action against him by warning him in the first few instances and thereafter by infliction of graduated punishment, even including termination of services or dismissal provided circumstances of a grave character require such a step. The workmen must take note of this caution and guide themselves accordingly.

310. It is, of course, open to the bank managements to allow the staff to leave earlier before the close of the office hours with prior permission of responsible officers where the workman has finished his day's work and if his presence is not specially required for other work. The banks have contended that no overtime payment need be made for overtime work which is caused by the mistake or negligence or carelessness of any of the workman and which necessitates the presence of such a workman and other workmen beyond the stated hours. They do not also want to make overtime payment for doing work like closing of half-yearly, yearly balances etc. which it has been customary on the part of workmen to do for which also some allowances have usually been given according to the practice of each individual bank. Overtime work as stated above must be paid for in the light of the directions given by us. Banks, of course, will have the right to take suitable disciplinary action against workmen whose mistakes are due to carelessness or negligence and frequently cause such overtime work to be done by other workmen. Of course, the workman who makes such mistakes as to necessitate overtime work on his part cannot claim the benefit of such payment. Subject to this only, we repel the banks' contentions under this head.

311. There are certain minor matters which were discussed before us. It was contended on behalf of the workmen that in the case of 'split' duties due to two sessions of work in any day the workmen should be given conveyance allowance for one trip and there should be a reduction of one hour in the total number of working hours in view of the double trip from home to office and back. We do not give any such direction as it is just possible and not unlikely that there may

be some compensating advantages in such cases. In any event, this is a matter which is better left to the discretion of the management. Exemptions from fixed hours of work were also asked for, for certain members of the subordinate staff, like liftmen, all outdoor staff, staff in charge of air-conditioning plants etc. We do not think a case is made out for such exemptions.

312. The workmen have complained that they are not allowed to sign the register of attendance and that bank officers themselves fill up the same. If this is true, there is no justification for it. The workmen must have the right to sign the register in the presence of any officer deputed for that purpose and in any unlikely case of difference between them, the officer can make his remarks in the register simultaneously.

313. Finally, we wish to state that real industrial peace with respect to this question of working hours is possible only if the directions given by us are worked by both parties in a spirit of "give and take" and not with the rigidity of a code. Harmonious relationship and good feeling and a sense of loyalty to the institution are factors which must be relied upon to a great extent to smoothen out difficulties in a matter of this kind.

CHAPTER XV

Item No. 10: Workmen to whom the award is applicable

314. Item 10 in Schedule II to the reference is as follows:—

"Categories of workmen to whom the award of the Tribunal is applicable."

315. Is the word "workmen" used in a technical sense as defined in the Industrial Disputes Act, 1947? In the reference to the Sen Tribunal the corresponding word was "employees" and the issue read as "categories of employees to whom the award of the Tribunal is applicable".

316. The precise scope of the dispute under this head was discussed before us. If it means the categories of employees who are admittedly workmen, the disputes can relate only to some minor classes of workmen like domestic servants employed in officers' residences, cash department clerks where the Treasurer's system prevails, clerical and subordinate staff in the Shipping and Clearing Department of Grindlays Bank and a few others. The contention was that these are either not bank employees as such or not employees in the purely banking activities of the bank. This, however, does not appear to be the main scope of the dispute.

317. The real dispute centres round who are 'workmen' within the meaning of the Industrial Disputes Act and what categories of employees of the bank are not 'workmen'. A "workman" as defined in Section 2(e) of the Act means any person employed to do any skilled or unskilled, manual or clerical work for hire or reward. Ordinarily, members of the staff are classified as (1) officers, (2) clerks and (3) subordinate staff. The real dispute is regarding the principle to be adopted for deciding whether a particular employee entrusted with certain specified kinds of duties is to be classified as an officer or as a workman. If the employee in question is not a workman as defined in the Act, i.e., if he is not employed to do clerical work, whether skilled or unskilled, then arises the question whether this Tribunal has jurisdiction to consider his terms of employment or conditions of labour. The discussion before us has revealed that there are quite a number of employees under various designations in different banks and even in different branches of the same bank about whom there is no agreement between the parties as to whether they are workmen or officers. It was conceded generally that Managing Directors, General Managers, Managers, Agents and Chief Accountant are persons who may be excluded from the category of workmen. With regard to persons usually designated as Accountants, Sub-Accountants, Superintendents, Supervisors, Head Cashiers, Assistant Cashiers, Junior and Senior Assistants etc., there was however a sharp difference of opinion.

318. In the demands submitted by most of the unions affiliated to the All India Bank Employees' Association, the employees in the banks are classified as follows:—

Grade I—Subordinate Staff.

Grade II—All routine staff in general and in cash departments, godown keepers, assistant godown keepers, poddars, munshis, typists, stenographers, sircars and air-condition plant attendants.

Grade III—Supervising staff—Employees whose normal duties are to supervise over the work of the general staff, e.g. sectional in-charges, departmental in-charges, head clerks, clerks-in-charge, supervisors, probationary assistants, junior assistants, sub-accountants, assistant accountants, inspectors, etc.

Grade IV—Administrative staff—Employees whose nature of work is administrative such as accountants, agents, auditors, managers, etc. etc. including general managers.

319. In the demands by the Staff Associations of the Imperial Bank of India employees, the classification is as follows:—

Grade I—Subordinate staff, messenger staff.

Grade II—General and cash department staff.

Grade III—Supervisory staff.

Grade IV—Special supervisory staff.

Grade V—Administrative staff (junior).

Grade VI—Administrative staff.

The Imperial Bank of India Staff Association, Bombay Circle, Bombay, has specifically included Sub-Accountants and Head Cashiers amongst the clerical staff.

320. The demands from the unions appear to have been framed on the basis that an industrial dispute can be raised by workmen with reference to employment, terms of employment or non-employment or conditions of labour of any person, even though the latter is not a workman. This view of the law as to the scope of the expression 'any person' in the definition of Section 2(k) of the Industrial Disputes Act, 1947 though no doubt supported by a number of decisions, has not met with unanimous approval. Because of the conflicting decisions on this point, the matter was considered by a full Court of the Labour Appellate Tribunal in the case of the *United Commercial Bank V. Kedar Nath Gupta*, 1952 (1) L.L.J. 782. That Court decided that the words 'any person' should be interpreted as meaning only a person who can at some stage or other answer the description of workmen as defined in the Act. It is categorically laid down in that judgment that "any officer or member of the managerial staff cannot answer the description of 'workman' either on employment or on re-employment or on reinstatement and cannot therefore come within the expression 'any person' and no industrial dispute can be raised in respect of them. In view of this authoritative pronouncement of the Labour Appellate Tribunal, Counsel on behalf of workmen could not proceed with their demands as framed and had to modify them with respect to several categories of employees. It should be stated that while they admitted that this Tribunal was bound by the judgment of the full bench aforesaid, the workmen reserved the right to canvass the correctness of that decision in still higher courts and if they should succeed they claimed the right to have the matter reconsidered again.

321. The full bench view has however been interpreted by later bench decisions of the Appellate Tribunal in even a slightly narrow sense—see, for instance, the decision in 1952(2) L.L.J. 39 where the full bench is understood to have laid down that it is not valid to raise a dispute for persons other than 'workmen'. Again, in a later case *Caltex (India) Ltd. Bombay V. its workmen* [1952(2) L.L.J. 51] it is stated that the full bench of the Appellate Tribunal has held that under the Industrial Disputes Act, a dispute cannot be raised or pursued by or on behalf of the person who is not a 'workman' as defined by the Act. We are not sure whether this narrowing down of what the full bench has stated is really justified, particularly as it seems to hold to some extent against the decision of the Federal Court in the *Western India Automobile Association V. Industrial Court, Bombay* [1949(1) L.L.J. 245]. The intention of the full bench judgment would appear to include workmen and also some others not covered by the definition of workmen provided that such other persons can at some stage or other answer to the description of 'workman' as defined in the Act. The words at "some stage" are important and should not be ignored. Further, the full bench says "In this sense the words 'any person' will be co-extensive with workman as in Section 2(s)". Here again, the words "in this sense" should be given a distinctive meaning and cannot be treated as surplusage.

322. The problem before us however is slightly of a different kind. The question that was mooted and discussed was what exactly is the test to be adopted for distinguishing an officer from a clerk. The importance of this distinction lies in its application to cases of employees designated as head clerks, head cashiers, sub-accountants, supervisors, inspectors etc. Two broad views were advocated before us. On behalf of the workmen it was contended that persons who do supervisory work are not necessarily officers and cannot be said to belong to the managerial staff. Often times they are merely senior clerks with greater experience and while they themselves do some clerical work also, they exercise general supervision over other clerks in the same section. Head clerks belong to this category. Even those who are usually designated as supervisors and departmental in-charges

should be regarded as doing only skilled clerical work. They are not to be treated as officers in the sense of persons whose duties and responsibilities are of a directional and controlling nature.

323. On the other hand, the banks contended that the right test is not the possession of directional and controlling powers. Even a person, whose normal duty is to do only supervisory work cannot be a workman though occasionally and at times he may do some clerical work. Our attention was drawn to some decisions of the Labour Appellate Tribunal in support of this contention: (1) *Raymond V. Ford Company of India Ltd.* [1951(1)L.L.J. 187]—where a foreman whose duty is to supervise the work of the staff under him is held to be not a workman; (2) *The Ramkhola Sugar Company Ltd. V. The Punjab Sugar Mills Labour Association* [1952(1)L.L.J. 810]—where a person whose duties are to supervise the staff under him is held to be not a workman; (3) *Simpson Company V. Martin* [1951(1)L.L.J. 43]—where also a bench of the Appellate Tribunal decided that a person whose duties are of a supervisory character is not a workman, though in connection with his supervisory function he may have to do some manual work.

324. Justice Divatia in his main award on Bombay banks states in paragraph 6 that a clerk is generally a person who does routine work of writing, copying or making calculations under the direction and supervision of an officer. A person whose work is of a purely supervisory or technical nature is not a clerk. The learned Judge adds that it is "the character of the work which a person is doing that is material".

325. This matter is fully considered by Justice Bind Basni Prasad in his award in the U.P. Conciliation Board. In paragraph 13 of his award, clause (j) the learned Judge says, "As a general principle it may be stated that it is the nature of the work done by an employee and the degree of his responsibility which determine whether he is a clerk or an officer. His designation does not matter. The salary of an employee is no determining factor.....". Later on he explains with special reference to banks, the distinction between a clerk and an officer. According to him, "An officer is one who has responsibilities of a directional and controlling nature within the scope of his authority. Powers such as passing final orders for payments, signing receipts and documents on behalf of the banks, appointment or punishment or both of the subordinate staff and grant of leave to the staff are some of the attributes of officers. There may be an officer who may not possess all these attributes. Nevertheless, he may be an officer. The test is whether his duties and responsibilities are of a directional and controlling nature. Similarly there may be a clerk who may possess any of these attributes in a restricted degree. A clerk does work of a routine or mechanical nature and has no responsibility to take final decision in most of the matters which come in his hands". Dealing with the various designations used in banks that award states "Sometimes an official of the same designation does different work in different banks and even in different branches of the same bank. Where this is the position, his status as an officer or a clerk will be determined by the nature of his work and responsibilities as explained above and not by his mere designation". Dealing particularly with the nature of supervisory work, the award further states, "The mere fact that an employee checks or superintends the work of other clerks does not necessarily mean that he ceases to be a clerk. He does clerical work of a higher order.....". There is a sharp distinction between a supervisory and a controlling work. In amplification of this distinction between supervisory and controlling work, the cases of various persons designated under various names are examined in that award and in paragraph 13, clauses (p) to (u) the conclusions are set out. With regard to some of these, the representatives of banks on the Conciliation Board did not agree.

326. The test laid down by Justice Bind Basni Prasad in the Conciliation Award has been approved by a bench of the Labour Appellate Tribunal in *Bharat Bank Ltd. Versus Certain Ex-employees* [1952(2)L.L.J. 420]. Applying that test, that particular bench has come to the conclusion that Head Cashiers and Accountants in that bank are workmen within the definition of the Act. Again, another bench of the Labour Appellate Tribunal in the case of *Punjab National Bank Ltd. V. Its workmen* [1952(2)L.L.J. 648] has held that Accountants, Head Cashiers and Supervisors of that bank in its U.P. branches are workmen and not officers. There the bench observes at page 662 of the report: "The fact, therefore, is whether the accountants, head cashiers or supervisors of the bank are to be regarded as officers or workmen has to be determined. That would depend upon the essential nature of their duties. If they were clerical, they would be workmen. The question was

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considered in detail by the Conciliation Board appointed by the U.P. Government in 1948 of which Justice Bind Basni Prasad became ultimately the Chairman. At page 9 of its printed report a general test was laid down by him which has been accepted as correct by benches of this Tribunal the last case being the case of the Bharat Bank V. Their 89 workmen represented by the U.P. Bank Employees' Union (Calcutta Appeal No. 63 of 1952 decided on 1st August 1952) and following the findings of the said conciliation board, that bench has held that head-cashiers and accountants were workmen as their duties were of not a directional or controlling nature but essentially clerical. The Punjab National Bank was a party to Sri B. B. Singh's award and also before the said conciliation board. The conciliation board at page 10 of its award found that the duties of supervisors were clerical duties though of a high order; and so they were workmen. At page 11 it dealt with accountants and found that their duties made them workmen except the accountants of the Reserve Bank who have full signing and checking powers. In view of these awards, we do not think further evidence is necessary in case of accountants, head cashiers and supervisors of this bank and the exclusion of evidence by the tribunal in respect of them is not material.....".

327. It is in the light of all these decisions that we have to guide ourselves and lay down the appropriate test. In the first place, as pointed out by Justice Bind Basni Prasad, various designations are used by different banks and the nature of duties and responsibilities are not the same in all cases. They vary from bank to bank and from branch to branch, even with respect to the same bank. Essentially, therefore, the question to be decided is one of fact. It is certainly not a pure question of law but is a mixed question of fact and law. Certain general tests can be laid down but they have to be applied to the facts and circumstances of each particular case, because the nature of the duties and responsibilities in each case varies and must be first ascertained before the principles can be applied. We have before us 129 banks and it is impossible for us to go into this question with reference to the various disputed categories in all these banks and all their branches. All that we can do, therefore, is to lay down what we consider to be right principles to be adopted.

328. The correct view is the one laid down by Mr. Justice Bind Basni Prasad's Conciliation Award and adopted by decisions of the Labour Appellate Tribunal referred to already. The real point of controversy is with reference to the question whether normal supervisory work, short of what is described as directional and controlling powers, is sufficient by itself to take an employee out of the category of workmen. We think it will not be right to lay down a general proposition of that sort. Most often, supervisory work is entrusted to senior clerks who have experience of that kind of work and who as sectional heads can supervise similar work of clerks under them. It may be that in some instances, supervisory work is of such a type and character that it can only be a responsibility of an officer, strictly so called. That may very well happen where there is a supervising hierarchy, and particularly so in big banks and in Head Offices and branches in important cities where the volume of work is considerable and requires supervision at several stages. It must be remembered that in the banking industry there is supervision at several levels, as for instance, where a cheque goes round a number of hands to see whether it is in order and should be paid and in some cases where the amounts are large, still higher officers may have to scrutinize the same. Supervision, therefore, in banking industry cannot be regarded as a clear dividing line between clerical and officers' work. In this respect the peculiarities of this industry must be kept in view. As already stated, a hard and fast rule cannot be laid down.

329. The only practical course for us to adopt, therefore, is to accept the general conclusions of the recent discussions of the Labour Appellate Tribunal which has accepted and applied the tests laid down by Justice Bind Basni Prasad's award. Though it may be said that evidence was not taken with respect to each particular office, more so in the case of offices outside U. P. State, the general conclusions may safely be adopted as a *prima facie* acceptable view, having regard to the general pattern of banking activities as a whole. We realize, however, that with regard to the banks whose main or important offices are not in U.P. State there may be a conceivable difference which would not justify a wholesale adaptation of the same view throughout. The choice before us is, therefore, either to leave the matter undecided without any further conclusion in respect of each individually disputed category or to lay down that these groups will be *prima facie* treated as 'workmen' with liberty to the banks concerned to raise the dispute again with reference to categories which have not been actually a subject-matter of decisions by Appellate Courts. We think, on the whole, the latter course is to be preferred. It is only when this class of people feel that their pay scales, allowances and prospects do not compare favourably with those awarded by us to the clerical

grade that disputes are likely and would assume importance. We think that in well conducted banks the officers' scales, though perhaps for the first few years may not be very attractive, are such that most of these employees concerned will prefer to be officers rather than workmen.

330. On behalf of the important banks, an offer was made before this Tribunal in the following terms which, we think better to embody:

"Without prejudice.

If any person, who has been placed by any bank in an officer's grade, desires to be treated as a workman, he shall have the option to be so treated, and in that event this award shall apply to him in all respects. Such option shall be exercised in writing within two months of the publication of the award, and from the date of his exercising such option he shall cease to be entitled to any rights or privileges as an officer. An option once exercised cannot be revoked. Any person exercising the option shall be placed in the clerical grade at the place nearest to the basic salary which he last received as an officer, and shall carry out the duties assigned to him by the management".

331. This offer was made with the bona fide desire of arriving at a settlement of this issue. The banks' contentions were that most of the people catalogued by them as officers were really not anxious to raise this dispute that they were workmen. They urged that the Tribunal should call for a list of individual persons who wanted adjudication as to whether they were workmen or officers. They felt that such cases would be very rare and almost negligible in numbers. In these cases they were quite willing to accept the workmen's choice in the terms of the offer as set out above. On behalf of the workmen this proposal was rejected off-hand. It was stressed that this is only an attempt to sidetrack the whole question and prevent the Tribunal from adjudicating on the real controversy between the parties. We are not satisfied that this is a right estimate of the effect of the offer by the banks. At the same time we feel that there is some force in the criticism of the workmen. Where an officer on an existing scale of emoluments is compelled to choose the status of a workman whose maximum scale may even be less than his present emoluments with no certain prospects of promotion leading to a better scale. It might not be a fair choice to be placed before him, where he claims that the nature of the duties he is doing for the time being is really such as to make him "a workman" and thus entitle him to receive such emoluments as the Tribunal may properly fix for that kind of work. We cannot, therefore, accept the banks' proposal and we refrain from dealing with the matter further.

332. To sum up, we are of opinion that the general test is what has been laid down by Justice Bind Basni Prasad in his award in the U.P. Conciliation Board and accepted by the Labour Appellate Tribunal. This test must be applied in relation to each particular disputed category of workmen in the light of the duties and responsibilities allotted to them in the offices where they work. It is not possible to lay down a general rule that merely supervisory work will automatically make a man cease to be a workman. The categories of workmen known as Head Clerks, Accountant, Head Cashiers should *prima facie* be taken as workmen wherever they desire to be so treated but with this important proviso that the banks are at liberty to raise an industrial dispute about such classification wherever they feel that with reference to a particular branch and a particular office a person so designated is really entrusted with work of a directional and controlling nature and perhaps even supervision of a higher type over ordinary supervisory agencies. We realize that these directions do not really give a categorical answer to the problem of classifying the categories of workmen to whom the award should apply. All that we can say is that where these aforesaid categories are doing clerical work and are clerks they must be given the pay and allowances which we fix as the minimum. We can only hope that where such people are really doing part of managerial work in the sense that they can legitimately be classified and treated as officers, the banks' scales of pay for such employees will be higher so that there may be no occasion for them to raise a dispute as to their status.

333. So far as the Imperial Bank is concerned, Counsel on behalf of the workmen and the Bank stated that the dispute was confined only to the cases of Head Cashiers and Sub-Accountants. According to the Bank, these employees belong to the cadre of officers and not the clerical staff. Actually they seem to be getting higher emoluments than members of the clerical staff. It was stated before us that the Bank is considering the question of revision of their salary scale but the matter has been deferred owing to the pendency of the proceedings before this Tribunal. We asked the employees whether it would not be desirable to await the result of the proposed revision by the Bank rather than insist on a decision

by this Tribunal at this stage. After taking time for consideration, we were told that the employees preferred to wait; only liberty must be reserved to them to raise an appropriate industrial dispute on this matter if the revised scales are found by them to be unsatisfactory. In our opinion, that contingency is not very likely and we therefore refrain from giving a decision on the dispute, liberty however being reserved to the parties to re-open the matter, if necessary, later on by the appropriate procedure.

334. Another minor point raised by the Imperial Bank of India relates to the class of employees described as domestic servants. The Bank states that they are by way of amenities to officers. It claims that they are not workmen within the definition of the Act. It is admitted, however, that they are all appointed and paid by the Bank. Their names appear on the Bank's pay roll. When officers leave the premises, they generally act as caretakers of the Bank's property and premises. We hold accordingly that they are workmen and cannot be excluded from our jurisdiction.

335. The Bank also contended that persons appointed in the cash department under what is known as the "Treasurer's system" in Kanpur should not be regarded as bank employees. This contention has been repelled by the decisions of the higher court under similar circumstances. We therefore reject the bank's contention.

336. The Grindlays Bank urged that its employees in the Shipping and Clearing Department are not workmen and do not come under our jurisdiction. No such contention appears to have been raised before the Sen Tribunal. It is admitted that they are employees of the Bank, appointed and paid by it. What is urged is that they are not employed in the banking industry in the strict sense of the term. Shipping and Clearing departmental activity is allowed to banks under the provisions of the Banking Companies Act for the convenience of their customers. The definition of the term "workman" in the Industrial Disputes Act does not make a distinction between the different departments of activity of the employees. We do not accept the contention that these are not workmen. It is a different question if there should be any special direction or consideration with reference to their terms of employment or conditions of service. It is only with reference to working hours and over time that this aspect of the matter is raised before us. The employees in Bombay City have entered into a compromise with the Bank. It will therefore govern their rights (See Appendix V). The Calcutta employees, however, have disowned that compromise. No special arguments were urged before us in respect of this matter. In their case our general award will apply.

CHAPTER XVI

Item No. 25: Department-in-charges, etc.

Item 25 in the reference is as follows:—

"Whether head cashiers or treasurer's representatives or any workmen who perform their functions are to be treated as Department-in-charges".

338. There was some discussion before us as to the precise scope and ambit of this dispute. The expression "department-in-charges" does not appear to be a technical one in banking practice. We understand that this designation is not in vogue as such in the banks. It must therefore be taken as merely denoting a person who is in charge of any department of banking activity. So understood, even an affirmative answer to the question as propounded does not lead to any definite conclusion unless it is correlated to definite rights and responsibilities or emoluments of a person in charge of a department. There are several departments with varying activities and the extent of responsibility of a head of department is not and cannot be uniform in all banks or in all matters. Some of the unions before us realised this difficulty and have simply demanded that head cashiers and treasurers' representatives should be treated as supervisors or heads of sections and should get emoluments appropriate to such positions of responsibility.

339. Another aspect of the matter which perhaps is the real question intended to be referred to us was put forward by the U.P. Bank Employees' Union. Shri B. B. Singh in his award provided for a higher scale of pay for "head clerks, supervisors and departmental-in-charges". The particular expression 'departmental-in-charges' seems to have been his coinage. He did not however define or even describe who all should be treated as 'departmental-in-charges'. For A class banks he fixed a scale of Rs. 120 to Rs. 300 for such people and a lesser scale for

B and C class banks. This was the minimum as laid down by him. In implementing this award differences arose with regard to head cashiers in banks and treasurers' representatives where the "Treasurer's System" was in vogue. The disputes related to the question whether head cashiers and treasurers' representatives should be paid on the same scale as was laid down for "head clerks, supervisors and departmental-in-charges" in Shri B. B. Singh's Award. The Imperial Bank of India was not a party to the B. B. Singh Award and so the question did not affect it. After the award, the Central Bank of India changed the designations of these persons. It was alleged by the workmen that this was done purposely so that they might not claim the benefit of the higher scale, though it was recognized that their duties involved greater responsibilities than the ordinary cashiers working under them which would justify an addition to their emoluments by way of an extra allowance. The objection was to pay them on the same scales fixed for heads of departments. Mr. Lawrie admitted that the Allahabad Bank implemented the award with reference to head cashiers. Even then, clerks-in-charge of pay offices were not given this benefit but were given only a small allowance.

340. These disputes were thereafter referred to a Conciliation Board. The President of the Board would appear to have recommended that cashier in charge of pay offices should get some allowances but not the same salary as departmental-in-charges, unless the cash department contained four or more cashiers in which case alone the head cashier was to be given the scale of departmental-in-charges. There was no agreement on this question amongst the members on the Board. As the Government orders also did not finally provide for these cases there was a notice of strike by the workmen. There was then a Tripartite Conference at Patna, where it would appear that an agreement was reached. This is corroborated by a letter of 18th June 1949 written by the Chief Labour Commissioner to the Secretary of the U. P. Bank Employees' Union. But for some reason or other, this agreement was not implemented by the banks, and the position remained the same as before. Then came the appointment of the Sen Tribunal. One of the items referred to them related to this dispute, and it is in the same language as it appears in our reference. This narrative of events shows that the disputes actually started with B. B. Singh's Award and related to its implementation. But B. B. Singh's Award is not to govern the parties now, and the pay scales and allowances as per our award alone will apply to the workmen. This question now ceases to be of any but academic moment.

341. The discussion before us however revealed that the responsibility of these head clerks or treasurers' representatives is greater than the ordinary routine clerks working in the cash department, and to that extent therefore a case for higher emoluments for them was practically admitted before us. The real question is what should be the appropriate scale of pay and emoluments for this class of workers. A subsidiary question would be, as and from what date such workmen in the branches in the present State of Uttar Pradesh who were governed by the B. B. Singh Award should get the benefit of our final pay scale and emoluments.

342. In view of what is stated above, this issue must now be treated as not surviving or requiring a definite answer, except to the extent that we have to provide for an appropriate scale of emoluments for people who are head cashiers or treasurers' representatives and those who do similar work where they can be regarded as legitimate workmen and not as officers. This is provided for elsewhere and this issue is answered accordingly.

CHAPTER XVII

Item No. 5—Bonus

SECTION I—Payment of Bonus.

343. Item 5 of schedule II to the reference is as follows:—

"Bonus including the qualifications for eligibility and method of payment."

344. The reference to the Sen Tribunal was precisely in the same words. Interpreting the scope of this particular item of dispute, the Sen Tribunal held in paragraph 234 of their Award that the kind of disputes regarding bonus which had been referred as above related to disputes of a general nature as contradistinguished from disputes relating to the quantum of bonus for particular years in respect of particular banks. They pointed out that wherever a specific case was intended to be covered, the reference contained appropriate language. They declined to go into the demand made by several unions for bonus with reference to past years in respect of particular banks. With this interpretation before

them, the Government in its present reference have used identical language as before. The question was raised before us whether it was open to the workmen to ask this Tribunal to fix the quantum of bonus for particular years and for particular banks or whether only a bonus scheme as such applicable to all banks or groups of banks for future years could and should be formulated. Some of the demands before us have specifically asked for the determination of bonus for the years 1949, 1950 and 1951 and in a few cases even for 1948. In general, however, the demands have been for framing a formula of general applicability to govern the amount of bonus to be paid in the years to come. The banks have contended that the dispute referred to us does not comprise the determination of the quantum of bonus payable for the past years by any of the banks before us.

345. We are of opinion that the contention of the banks in this matter is right. The Government, as pointed out above, have used precisely the same language as in the case of the previous reference to the Sen Tribunal which was interpreted in a particular manner. Neither the workmen nor the Government have used clear language to show that the ambit of the dispute to be decided by us is wider than what would be covered by the interpretation of the Sen Tribunal. Further, it is not easy to believe that the Government intended us to go into the accounts of these 129 banks before us for several past years and determine the exact quantum of bonus in relation to each bank and for each year. It does not also appear that such specific disputes were brought to the notice of the Government by the concerned parties before the reference was made to us. It is true that the Sen Tribunal had awarded bonus on a definite formula which, if it had been valid, would have governed the quantum of bonus payable for the years 1949, 1950, 1951 onwards. The banks, however, obtained a stay of this portion of the award and ultimately the award itself was declared void with the result that the workmen did not get bonus on that scale for the years in question. Some banks did not give any bonus for some of these years and others gave much less than what the Sen Award directed. The workmen therefore can legitimately say that the question of bonus which they had raised even in 1949, remains unresolved by any collective agreement or by any valid award. They have had no satisfactory disposal of this claim for the years in question between 1949 and 1952 in any recognized way. At the same time, we cannot assume that for all these 129 banks before us and for all these years there were live disputes about this matter which the Government had considered fit and proper to be referred to us after applying their minds to the problem whether such a reference should be made to an industrial tribunal. There is also this additional circumstance that there have been two special and specific references by Government in relation to the payment of bonus by the Central Bank of India, the Allahabad Bank and the United Commercial Bank for the years 1950 and 1951. Moreover, even apart from the general character of the various heads of disputes in the reference to us, individual cases pertaining only to some banks wherever the Government wanted to make such a reference have been particularized and set out, e.g. Absorption of Bharat Bank Employees—item 31 in Schedule II to the Notification. It is rather unfortunate that this aspect of the matter has not been specifically kept in view either by the workmen concerned or even by Government. It may be mentioned that the claim before us in connection with the bonus payable by the Imperial Bank of India for the years 1948, 1949, 1950 and 1951 would involve a payment of very nearly a crore of rupees over and above the payments already made for those years. It is not possible for us to affirm what the attitude of the Government would have been on the question of referring a dispute of this character to us under Section 10 of the Industrial Disputes Act 1947. The primary duty is on the Government to be satisfied subjectively whether a reference should be made or not. In the circumstances aforesaid we hesitate to hold that we are concerned with the question of quantum of benefits for particular banks and for particular years in the past in the light of profits of such banks during those periods. We ruled out a request that evidence should be taken for determination of the question. It may yet be open to the concerned parties where there is a real grievance to approach the Government to get a suitable reference for the future as well as for the account years, 1949, 1950 and 1951.

346. The only question for consideration, therefore, is whether what may be called a bonus scheme for the future years can and should be devised and whether it should be made to apply retrospectively even to all banks and for all years. It is best to summarize the demands and the contentions before us in respect of this matter before we deal with the merits thereof. Different formulae were suggested for the determination of bonus payable for each year. Mr. Chari for the All India Bank Employees' Association representing by far the largest

number of workmen has demanded that bonus should be paid on the following basis:—

All employees should be paid a bonus at the rate of 2 months' pay, 3 months' pay and 4 months' pay by banks with working capital of Rs. 15 crores or less, between Rs. 15 crores and Rs. 40 crores and over Rs. 40 crores respectively. Such bonus should be paid for the years 1949, 1950 and 1951.

347. Mr. Phadke on behalf of most of the workmen of the Imperial Bank of India and some of the Exchange Banks claimed bonus at the rate of $4\frac{1}{2}$ months of basic earnings meaning thereby basic pay, special allowances and overtime payment, but excluding dearness allowance. The claim is for 1948 onwards, credit, of course, being given as part payment to what has been paid in the interval. On behalf of the rest of the workmen of the Imperial Bank of India a claim was made for as much as 50 per cent. of the basic earnings for these years and thereafter. Mr. Phadke for the Imperial Bank of India workmen in particular suggested, during arguments, a revised formula as under:—

The percentage of profits to paid-up capital should first be worked out. Twice this percentage of total basic pay bill for staff for the year should be distributed as bonus.

348. Mr. Phadke also claimed that the Exchange Banks should pay the same percentage as the Imperial Bank of India. Mr. Dudhia who appeared for some of the workmen suggested that 50 per cent. of the total basic earnings must be a first charge on the profits and should be distributed by way of bonus. He also suggested an alternative scheme by way of linking bonus to dividend on lines similar to what the Sen Tribunal had awarded. The Sen Tribunal linked the amount of bonus to the amount of dividend and directed that $1/6$ th of a month's pay should be given as bonus for each increase of $\frac{1}{2}$ per cent. in the dividends over 4 per cent. without any ceiling whatever. Some unions suggested that 20 per cent. to 50 per cent. of profits should be distributed as bonus.

349. For the banks it was contended firstly that a demand for a bonus scheme in relation to banking companies cannot be an industrial dispute which can be referred for adjudication. Secondly, it being well settled that bonus can come only out of profits it is not legally possible to provide for a definite formula for calculating bonus for future years as the same would offend against the provisions of Section 10(1)(b)(ii) of the Banking Companies Act (Act X of 1949), which prohibits the employment of any person by a banking company whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company. Thirdly, even if a general scheme could be provided in the shape of an appropriate formula linking the amount of bonus in some form or other to the amount of profits, it should not be done as an automatic provision for future years. It was finally urged that the factors which should be considered before a satisfactory determination of the amount of bonus for a particular year can be arrived at are too indefinite, vague and unforeseeable and cannot be crystallized in any set formula and that it will be dangerous to do so as it may affect the stability of the banking industry.

350. It is now well settled in industrial law that the payment of bonus is not a mere *ex-gratia* payment at the sole discretion of the employers but that a claim for bonus may lead to an industrial dispute, to be decided by an award of a competent tribunal binding on the employers. This is admitted by the banks as generally true and it is supported by the various decisions (see the decisions of the Labour Appellate Tribunal in 1950(2) L.L.J., 1247 and in 1952(1) L.L.J., 814). A special contention is however raised that while non-payment of bonus may lead to an industrial dispute in respect of Joint Stock Companies other than banks, there cannot be such an industrial dispute in relation to a banking company by reason of the prohibition contained in Section 10(1)(b)(ii) of the Banking Companies Act (X of 1949). It was argued that an award of a Tribunal in relation to a bonus share where a general rule is laid down as applicable for future years will be imposing a term in the contract of service and that it would amount to a direction to employ a person "whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company" within the meaning of the above section of the Banking Companies Act. A distinction exists between an award directing the distribution of a particular amount of bonus as and for a particular year after the profits thereof have been ascertained in relation to a particular unit of the industry and an award laying down a general formula for a whole industry or separate units thereof prescribing how much should be awarded by way of bonus from the profits of future years as well. In the former case what is being done is merely directing an additional payment whereas in the latter

case it is incorporating an enforceable term in the contract of employment between the workman and the bank. A general rule would really be adding a new term to the contract of service. The amount of bonus which is given is really a part of the remuneration for the services done because it is now admitted that bonus is being given to cover in part at least the gap between what a living wage should be and what the actual wage is in a particular case. This is certainly so in the case of workmen whose scales of salary cannot be said to amount to a living wage in the usually accepted connotation of the term and can only be described either as a subsistence wage or a fair wage. It is not, therefore, right to hold that the somewhat wide term "remuneration" used in Section 10 of the Act aforesaid will not cover the amount of bonus distributed for any particular year out of profits especially where it becomes an enforceable right by reason of an award making it an additional term of contract between the parties. Clearly such a rule or a formula imposed by an award may offend against the terms of the Act and it is not be open to the Tribunal to lay down a scheme in those terms. This necessitates examination of the precise formula which is to be laid down for determining the amount of bonus.

351. It would be convenient at this stage to dispose of the suggested formula of linking bonus to dividend. It is opposed by a large majority of the workmen though a few support it but only as a last resort. The workmen's objection is that not infrequently dividends are not declared, even though enough profits have been earned to justify payment of dividends as well as bonus to workmen. The banks also object on the ground that the formula really amounts to linking bonus to profits and hence it is open to the legal objection aforesaid as being contrary to Section 10 of the Banking Companies Act, 1949. Moreover, there are inherent defects in adopting such a formula some of which are the absence of a ceiling (which perhaps may be rectified), the difficulty of dividends being sometimes declared tax-free and sometimes subject to tax, the difficulty resulting from different rates of dividends for different kinds of shares, the issue of bonus shares, the payment of cash bonus instead of fixed dividends. A recent decision of the Labour Appellate Tribunal holds that the linking of bonus to dividend is objectionable [1952(2)L.L.J. 405] and sets aside such a provision. We cannot therefore consider this method.

352. The statutory prohibition urged on behalf of the banks is sought to be avoided by the formulæ pressed on behalf of the workmen. The attempt is to link up the bonus amount either to the total working capital or to some fraction of total basic earnings or total basic pay bill, carefully avoiding all express or implicit reference to profits. The method suggested by Mr. Chari asks for payment of bonus at the rate of two, three and four months' basic pay according as the working capital of banks is below Rs. 15 crores, between Rs. 15 and Rs. 40 crores and over Rs. 40 crores. This formula will no doubt in terms avoid the linking up of bonus to earned profits as such but it is difficult to support it on principle. It was argued before us that the banking industry unlike manufacturing concerns can count upon a steady stream of profits year after year, provided the management is prudent and honest and the lending policy is sound. The profits may be on a modest scale but so long as the bank's resources are wisely employed there are bound to be adequate returns, the risk of loss being much less than in industrial companies. The amount of profits being thus normally correlated to the amount of working funds it is fair to assume, that enough profits would be earned to justify the payment of this amount of bonus. Mr. Chari who pressed for this view did, however, concede during arguments that there should be a further proviso in any event, namely, that any particular bank which had not made profits in any particular year should not be made to pay bonus. He stated that it must be open to the banks to raise an industrial dispute if, as a result of the working in a particular financial year, there is reason to diminish the amount of bonus. He urged that if no formula of a general character is laid down to govern the matter for future years there is the certainty of recurring annual disputes over this question of bonus which would perpetuate industrial unrest. He suggested that a general formula on the lines indicated by the demand would be found to be in tune with the existing practice of bonus actually declared by various banks. He emphasized that unless a general rule applicable *prima facie* is laid down the workmen will be raising these disputes almost as a matter of course. His formula, he contended, was not only legal but also expedient and it actually represented the existing practice with "a little upward push" which was required in the interests of industrial harmony. Later, however, on scrutiny of figures he admitted that the claim for two months' salary as bonus for workmen in banks with capital of less than Rs. 15 crores was not borne out and required modification but did not indicate the precise modification which was necessary.

353. Bonus, as is now laid down, should come only from profits of any particular year. It cannot be made a part of the fixed costs of establishment irrespective of profits being earned or not. It cannot become part of the salary or an integral part

of the fixed wage structure. Bonus is really contingent on profits being earned. It must therefore primarily bear some relation to ascertained profits of any particular year. To lay down a rule upon the basis of assumed profits which the units of industry are expected to make in the normal course cannot therefore be right. Further, there cannot be a generalization with reference to the rate of profits which the various component units of this industry can be assumed to earn in the normal course. In some industries there is standardization to a large extent. But banking cannot be dealt with on a similar footing. Actually, the tabular statement relating to the percentage of profits of various banks to their working funds filed before us shows great variation ranging between .016 to 2.37 per cent. Even the Imperial Bank of India's rate is only about 0.8 per cent. It is not possible for us therefore to agree to Mr. Chari's formula as either sound in principle or as a substantially just rule which should operate as a matter of course. The Labour Appellate Tribunal has not evolved any general rule for a bonus scheme applicable to future years even in relation to other industries. So far, all the awards of industrial tribunals, including those of the Labour Appellate Tribunal, have been restricted to bonus awards in relation to particular years in the past. A general workable rule has been laid down for the textile industry in Bombay as per the Full Bench decision of the Appellate Tribunal, [see 1950 (2) L.L.J. 1247]. It is not, however, possible to adopt it for the banking industry which differs from it in many respects. In the textile industry bonus is awarded on the profits of the industry as a whole excluding units which have sustained losses. Here it is admitted that bonus can only be with reference to each individual bank and not on the whole industry as such. Even apart from that, banking requires special safeguards for the creation of reserves for various purposes and for the maintenance of confidence in the investing public. No other alternative scheme was suggested on behalf of the generality of workmen represented by the All India Bank Employees' Association. We are unable to accept their demand in the form stated even with any modification.

354. Next, we shall examine the formulæ advocated by Messrs. Phadke and Duddhia who appeared for a large number of workmen of the Imperial Bank of India and other bank workmen as well. Their formulæ try to correlate the amount of bonus with the total basic earnings but they are arbitrary and not based on any principle. Mr. Phadke's other suggestion is that twice the percentage of what the profits bear to paid-up capital should be paid out of the total basic pay bill as bonus. It is put forward as a rule which, at any rate, directly avoids a form of sharing in profits. He admitted frankly that this was more or less arbitrary but he claimed that so far as the Imperial Bank of India and the Exchange Banks are concerned with respect to whom he advocated this formula, the burden will not in any way be beyond the resources of the bank concerned. Its arbitrary character became very evident when it was applied to the Central Bank of India. Even Mr. Phadke would modify it in similar cases. He was at pains to convince us from the published figures how it worked out in practice. We are not, however, satisfied that an arbitrary rule of this sort is to be commended or adopted. As a matter of fact, a claim on this basis would now involve a payment of a crore of rupees for the four years 1948, 1949, 1950 and 1951 over and above the two months' bonus paid by the Imperial Bank of India from all those years. We are not to be understood as deciding what the proper amounts for these years should have been but all that we say now is that a formula on these terms as applicable to past and/or future years cannot be justified on any known or definite principles even assuming that the legal bar of Section 10 is got over. He conceded that his formula cannot be made applicable directly to Exchange Banks because we have no published figures of their paid-up capital for India. He therefore suggested that Exchange Banks, being more or less as sound and prosperous as the Imperial Bank of India, the same percentage as in the case of the Imperial Bank of India should be automatically paid by Exchange Banks. It really makes the rule more arbitrary in the case of Exchange Banks whose bonus amount is thus made to depend upon the profits earned by another institution. Obviously, we cannot accept the suggestion. Mr. Phadke's main point was however that the Imperial Bank of India and the Exchange Banks are so well established that a claim for 37½ per cent of total basic earnings can safely be laid down as an obligation even without practically any investigation of the figures relating to any particular year. In other words, it really comes to making a bonus in these cases a part of the fixed costs of establishments adding 4½ months' pay to each year of service. We cannot adopt his formula.

355. The net result of the above discussion is that none of the various methods suggested for devising a suitable formula governing the amount of bonus for future years is acceptable. Is it really then not possible to lay down a general rule for the determination of bonus amounts in relation to profits for future

years? Is it only when the annual profits are declared and the available surplus or profits is ascertained that a proper figure can be fixed for distribution by way of bonus?

356. It is unfortunate that the problem in relation to a bonus scheme as such should remain unresolved to any extent whatever. We tried our best to find a satisfactory solution but legal difficulties are said to stand in the way. This position, if accepted, though it may temporarily be a forensic triumph, will certainly not be conducive to industrial peace. Each year the dispute is bound to be raised as, like Oliver Twist, the workmen will ask for more than what is given. We cannot look upon such a state of affairs with equanimity and leave the matter there.

357. It was also contended on behalf of the workmen that the words "any person" in Section 10, sub-section (1) clause (b)(ii) of the Banking Companies Act must be so construed as to exclude workmen and members of the staff not belonging to the managerial cadre. The "ejusdem generis" rule of construction was relied on for this purpose. It was urged that the mischief which was sought to be prevented by the enactment of this provision and the corresponding Section 277 HH of the Indian Companies Act related only to the employment of Managing Agents and Managers on terms which were felt to be objectionable and liable to great abuse. We are not, however, convinced that this narrow interpretation is justified. The language is wide enough and clause (b) is a separate provision which is self-contained. If for sub-clause (i) of clause (b) of Section 10 the term 'any person' includes any workman also, as undoubtedly it does, there is no reason to restrict its meaning for purposes of sub-clause (ii).

358. It was further contended that the expression "share in the profits" as used in the said sub-section really means a definite, precise, fixed, fractional share. The word 'share' denotes 'a part' or 'portion' also, though it may not be a definite fractional share. A fixed amount payable from or out of profits may well be described as a share in the profits—[see decision in 1896(2) Queen's Bench, 484]. Where, however, there is no rule of definiteness of the amount which is payable though it comes out of profits it may be possible to hold that the remuneration does not take 'the form of share in the profits', within the meaning of the aforesaid section.

359. Notwithstanding the above, the question still remains whether Section 10, sub-section (1) clause (b) (ii) as a whole really covers the case of such a term in the contract of service imposed by an award of a tribunal relating to "bonus" where it is not one of the terms of a free contract voluntarily agreed to between the parties. In other words, does Section 10 prohibit a term of employment imposed by Courts and tribunals over and above what the parties stipulate as part of the contract between them? The Chairman is of the view that Section 10 does not cover such a case. If this view is correct then a general formula or rule in relation to payment of bonus payable out of profits of future years even if it is linked directly to profits will not be illegal. The matter is not however free from doubt.

360. The discussion before us also covered the question, what should be the general principles for determining the quantum of bonus even if any legal difficulties due to Section 10 of the Banking Companies Act are ignored. The principles laid down by the Labour Appellate Tribunal in the Full Bench case in relation to the Textile Industry in Bombay and Ahmedabad were canvassed before us. Some of these principles, though not all, are applicable to the banking industry as well. In our opinion, bonus should come out of the profits only and where there are no profits no bonus is payable. In fact bonus should come only out of what may be termed as "available surplus" of the profits after providing for certain prior charges which should be recognized as paramount claims. Prior charges to be so recognized are—

- (1) The amount that should be set statutorily apart for reserves under Section 17 of the Banking Companies Act, 1949.
- (2) Reasonable amounts that should be set apart by way of additional reserves and in accordance with sound banking principles for meeting such contingencies, as depreciation of securities, reserves for bad and doubtful debts, appropriations towards gratuity or pension fund and some amounts to carry over for next year etc.
- (3) Reasonable dividends on paid-up capital and return on reserve funds.
- (4) Amount required for taxes. (Tax on what is to be paid as bonus is to be added back in reconstructing the balance sheet).

If any of these items have been provided either wholly or partly before net profits are ascertained these items should not be deducted once again. The balance remaining after providing for the aforesaid amounts will constitute "available surplus" in which both capital and labour should share. These are the general principles to be kept in view.

361. As regards a reasonable return for capital we think 6 per cent. should be allowed on paid-up capital as well as on reserves. In the case of the textile industry the full bench decision provides for a smaller return on reserves. We think in the case of the banking industry no distinction should be made for the purposes of return between paid-up capital and reserves. As regards the precise rate it was urged before us that six per cent. is too low. It was urged that in the case of the textile industry the percentage was agreed to by the parties in the then circumstances. It was strongly urged before us that the percentage should be increased having regard to the fact that private capital is shy and that there is great and urgent need for more and more private capital for the purposes of implementing the Five Year Plan. The banks did not, however, choose to tell us what the rate should be though they took time for that purpose. The Report of the Committee on Profit Sharing considers six per cent. as a reasonable return. We think so too. It does not mean that shareholders will not in practice get more than six per cent. because the available surplus will again be distributed between capital and labour and the company itself. What is now provided for is a guarantee of six per cent. before any bonus can be paid. The point was also made that many of the present shareholders must have paid and may have to pay more than the face value of the shares in acquiring them and six per cent on the face value will not be sufficiently attractive. Once again the answer is that the balance sheet is being reconstructed only for calculating the available surplus and what is left after paying bonus is available for additional reserves and dividends.

362. Lastly, the provision for reserves other than statutory reserves and taxation need not, in our opinion, exceed 30 per cent. of the nett profits. It is in our opinion a safe estimate sufficient to safeguard the bank's interests. We think that it is desirable to lay down a definite percentage of the available surplus to be paid as bonus. We have considered the question whether the said percentage should vary according to the size and resources of the bank. In the case of the workmen of small banks the need for covering the gap between living wage and the salary that is fixed is greater than in the case of workmen of the bigger banks. This consideration requires a higher percentage in the case of the smaller banks. The smaller banks, however, unlike many of the bigger banks, have to contribute for a long time from their profits towards building up statutory reserves as in their case reserves have not yet reached the paid-up capital. In the light of these considerations we think that fifty per cent. of the "available surplus" in the case of banks belonging to 'A' and 'B' groups and sixty per cent. of the "available surplus" in the case of banks belonging to 'C' and 'D' groups may well be laid down as the fund available for bonus distribution. The question was mooted before us whether in considering the proportion of available surplus to be set apart for bonus the claims of both workmen and officers for bonus should rank *pari passu* or whether the workmen should have either a prior claim or a claim to a higher amount than officers. In the case of workmen bonus is really intended to cover partly at least the gap between living wage and actual wage. In the case of officers it is more an incentive for greater efficiency. Profits depend to a large extent upon the exercise of the intelligence and capacity and brain power of the officer staff. In the matter of bonus, therefore, we do not think a difference can be made between them as each group has a special argument in its favour except perhaps as regards the fixing of a ceiling limit for bonus. A scheme like the one set out above is in the interests of both the parties so that there may not be frequent disputes recurring every year in relation to the bonus claim. We are conscious that these conclusions set out above are to some extent arbitrary and it is easy to criticise them but we think this is a just scheme despite its infirmities and has the undoubted advantage of minimising chances of a recurring dispute. We accordingly commend this scheme for the earnest consideration of both parties. We also recommend to the Government that the alleged legal difficulty by reason of Section 10 of the Banking Companies Act, 1949 may be removed by suitable legislation making it clear that the payment of bonus to staff does not fall within the scope of Section 10 of the Banking Companies Act, 1949.

SECTION II.—Rules relating to eligibility

363. We give the following directions on the payment of bonus:—

- (1) For eligibility to bonus there should be no rule insisting on a minimum period of service for an employee during the year for which bonus is declared.

- (2) An employee will be eligible for bonus even if he is not in service on the date when bonus is declared. In such cases bonus amount should be paid either to him, or to his heirs if he should have died earlier, provided a claim in writing is submitted to the bank within a period of one year after such declaration of bonus.
- (3) Bonus shall be calculated on the pay earned, i.e. on the aggregate of the basic pay, special allowance, if any, and officiating allowance, if any, earned during the calendar year for which bonus is declared.
- (4) Bonus should be paid in one or two instalments in a year and within two months from the date on which the dividend is declared or an application is received in terms of clause (2) whichever is later.
- (5) Deprivation of bonus is not to be a form of punishment.
- (6) An employee who is dismissed for misconduct should not be made to forfeit his bonus but where financial loss is caused to the bank by such misconduct the bonus of the employee may be withheld to that extent.
- (7) All whole-time employees should be paid bonus *pro-rata* for the period of their service in the year in question. Part-time employees should be paid fifty per cent. of the bonus amount calculated on period of service *pro-rata*. Period of service means the total number of days worked by the employee plus authorised holidays and leave with pay divided by the number of days in the year. *Pro-rata* calculation will be on this basis and the total pay earned by the workmen in the year.
- (8) In the case of the Imperial Bank of India bonus may be paid on the accounts of each half year and in one instalment and within one month of such declaration. For each half year there will be a separate bonus.
- (9) The Summary of the Five Year Plan states (page 120) that the payment of bonuses in cash should be restricted and the balances added to the workers' savings. We made a similar suggestion during argument but neither side welcomed it. It was stated that an experiment on similar lines made some years back in connection with bonuses paid to the textile workers in Bombay proved to be a failure. In view, however, of the weighty recommendation of the Planning Commission we think the principle should be recognized and a beginning made. We direct that in the case of the clerical staff at Bombay, Calcutta, Delhi, Ahmedabad and Madras any amount payable as bonus in excess of two months' basic pay should be paid in the form of National Savings Certificates or Treasury Bonds or added to the provident fund account of the workmen (without, of course, any equal contribution from the bank).

These directions are in accord with the general principles that have been laid down by the Labour Appellate Tribunal.

CHAPTER XVIII

Issue No. 13—Provident fund

SECTION I—Rules of the Fund

364. Item No. 13 of Schedule II to the reference reads as follows: "Provident fund, including the rate of contribution and the rate of interest". Although the workmen in their written statements put forward different schemes the main demands presented during the arguments were as follows: (1) The contribution by the employees and the bank should be equal and should be 12½ per cent. of the basic pay of each month. (2) The rate of interest to be credited to each subscriber's account in the fund should be not less than 5 per cent. (3) The provident fund should be registered and recognized as such under the Indian Income-tax Act. Wherever it is not done payments of provident fund amounts to the workmen should be free of income-tax, the banks bearing the tax. (4) Any workman leaving the bank's services should be paid the full amount including the bank's contribution irrespective of the length of service. (5) There should be adequate representation of workmen on the board which administers the fund. (6) Loans upto 90 per cent. of the workman's contribution should be granted either free of interest or at nominal rates. (7) The provident fund should be more or less in line with the Model Provident Fund Rules drawn by the Government of India. (8) Where no provident fund exists one should be introduced, those who have suffered owing to its non-existence being adequately compensated. In such cases one month's pay last drawn by the employee for each completed year of service should be initially credited to his account. (9) No part of the fund should be forfeited for any reason whatever except for financial loss caused by the workmen in which case the bank may withhold that amount.

365. On behalf of the Imperial Bank of India employees the claim originally put forward was 8 1/3rd per cent. of basic pay plus dearness allowance, but later on it was raised to 12½ per cent. of basic pay to fall in line with the general demand of other employees.

366. A provident fund scheme is now a common feature in all well-established and stabilized industries. It is mainly a retiring benefit. At the same time it is to some extent a part of the current wage structure. In this respect it differs from other retiring benefits, like gratuity or pension. The fund consists of the employee's contribution from his pay and also a contribution by the bank. The main idea behind the fund is to provide for the employee and his family an adequate amount as a compulsory saving augmented by a substantial contribution by the employer. The provisions of a provident fund have necessarily to be taken into consideration in fixing the wage structure. Most of the banks before us have provident fund schemes of their own. The rates of contribution and the interest allowed vary from bank to bank. Only a few of the small banks have no provident fund at all. We think that all the banks should institute provident fund schemes. It is on this footing that our wage structure is based. We direct that the banks which have no provident fund schemes at present should within four months from the publication of this award bring into existence a fund on the lines indicated later on in this chapter.

367. A demand has been made before us that in cases where a new fund is to be started the existing employees must be credited with an initial amount to compensate them for the non-existence of the fund in the past. We agree that some kind of compensation is necessary in such cases. But it is neither feasible nor practicable to provide for such an initial credit. Such payments by banks may not have the benefit of exemption from income-tax, and besides may make it difficult for the fund being recognized under the Income-tax Act. The initial burden on the banks will also be quite appreciable. The object in view is better achieved by providing for payment of a special gratuity to such employees. To the extent to which we consider it legitimate for this and similar claims to be recognized we shall provide for them by way of giving special gratuity, when we deal with that subject matter.

368. We shall now proceed to consider the main provisions of the provident fund scheme which the banks should adopt. Except where liberty is given by specific directions to alter them prejudicially we are of opinion that a provident fund scheme on the following lines should be adopted by all the banks:—

(1) The provident fund should obtain recognition under the Indian Income-tax Act, 1922 and for this purpose the rules under the provident fund should not be contrary to any rules laid down under the Indian Income-tax Act. Where a bank for reasons of its own does not choose to get the provident fund recognized under the provisions of the Indian Income-tax Act the burden of the income-tax to the extent to which the employees would not have to bear if the fund were a recognized fund must be borne by the banks and not passed on to the employees.

(2) All whole-time employees of the bank other than personal or domestic servants, if any, should be allowed the benefit of the fund as and from the date of confirmation in service.

(3) There should be no minimum amount of salary or remuneration fixed for any employee to become eligible to join the provident fund.

(4) Every eligible employee shall be required to subscribe to the fund in accordance with the rules.

(5) The rules should provide for every subscriber to the fund nominating a person or persons either belonging to the subscriber's family or dependant on him to receive the amount that may stand to the credit of his fund in the event of his death occurring before the amount has become payable.

(6) Each subscriber shall be given a pass book in which shall be entered the amounts to his credit, made up of his contribution and the bank's contribution and the interest earned on the total moneys in his account. The advances taken, if any, and the repayments made should also be entered therein. The subscription due from each subscriber shall be realized by monthly deductions from his emoluments.

(7) Every subscriber shall subscribe monthly to the fund when on duty. The payment of subscription during leave shall be optional. The amount of subscription shall be 8 1/3 per cent. of the monthly pay in case of banks in groups A and B, and 6½ per cent. in case of banks in C and D groups. Pay means basic pay, special allowances and officiating allowance, if any.

(8) The bank shall make a monthly contribution to the account of each subscriber equal to the amount subscribed by the workman and such contribution shall be credited to the fund not later than fifteen days after the subscription is deducted from his emoluments.

(9) The fund shall be administered by a Board of Trustees on which the workmen also should have representation to the extent of $\frac{1}{4}$ th of the total strength of the Board.

(10) Moneys of the fund not immediately required for purposes of the fund and held in a Bank account shall be invested by the Board in any securities for the time being authorised under the Indian Income-tax Act, 1922, and the Trusts Act, 1882 and the rules made thereunder in respect of the investments of moneys of the Provident Fund recognized under the Indian Income-tax Act, 1922. Compound interest with half yearly rests will be allowed. Interest earned on the moneys of the fund shall be credited to the account of the individual subscriber. The banks however shall have the liberty to contribute other amounts at their discretion.

(11) Withdrawals by workmen and repayments by them shall be governed by the rules relating to such matters framed under the Indian Income-tax Act, 1922, as conditions for recognition of Provident Funds under Section 58(c) of the Act.

(12) If a subscriber dies or for other reasons ceases to be a subscriber the amount standing to his credit in the Fund including interest upto date shall become payable to him or his nominee, subject to any withdrawal made under rule 11.

(13) No claim shall be entertainable against the Fund if made more than three years after the date on which the amount due became payable.

(14) Any amount due from the fund shall cease to bear interest after three months from the date on which the amount became payable.

(15) Payments under rule 12 to the employee or his nominees in the event of his death, shall be made within one month of the date on which they fall due. In the case of death of an employee who has no subsisting nomination it shall be competent for the Board to pay the amount due to the natural heir or heirs of the deceased employee provided the Board is satisfied as to the heirship of the claimant or claimants.

(16) (i) Subject to the provisions of sub-rule (ii) no deduction shall be made from the amount standing to the credit of a subscriber when final payment is made to him or his nominees except as otherwise provided for in this scheme.

(ii) (a) A subscriber who has put in ten years of service and over shall be paid the full amount of the bank's contribution with interest.

(b) Those who have served five years and more but less than ten years shall be entitled to the bank's contribution at the rate of ten per cent. of such contribution with interest for each completed year of service.

(c) Those who have served for less than five years shall not be entitled to any portion of the bank's contribution or interest on it.

(17) There shall be no forfeiture of any amount due to a workman under this scheme excepting in the case where he is dismissed for misconduct causing financial loss to the employer, and in such cases, limited only to the extent of such financial loss.

369. The banks are directed to have an appropriate scheme on the above lines with liberty to add such other provisions as are necessary and not repugnant to the provisions laid down by us.

370. These general provisions which we have laid down will be found to be more or less in consonance with the provisions of the Model Provident Fund Rules for industrial employees as prepared by the Government of India*.

371. A legal objection put forward before us was that no directions can be given to the banks in respect of the existing provident funds which are vested in trustees because the trustees are not parties to this adjudication. Such an objection has been upheld as valid in some of the awards quoted before us. It has been contended that it is not even open to us to implead the trustees as parties and make an effective adjudication. We did not agree with this contention, as in our opinion Section 18 of the Industrial Disputes Act gives the Tribunal sufficient

*These rules are set out at pages 1021 to 1028 of the Indian Labour Codes compiled by S. N. Bose, 1950.

power to implead other parties as well for such purposes. We did not however think it necessary or expedient to do so, even though applications were made to us to implead such parties on behalf of the Imperial Bank employees. In the first place, it would have prolonged the enquiry before us to get the numerous parties added, and in the second place, we are satisfied that for achieving the object in view such a course was not necessary as we propose to rely on the assurances given by most of the banks before us, particularly the major banks, that all reasonable directions given by us would be implemented, and we ourselves propose to direct other alternatives to ensure such implementation of the alterations and additions as we may consider so essential as not to be left to the discretionary action of the banks.

372. An examination of the existing rules of the provident fund schemes, particularly of the bigger banks including the Imperial and Echange Banks, show that in almost all these cases it is not a difficult matter for the banks concerned to get necessary alterations made even where the concurrence of the trustees is required for such purposes. As the alterations are largely beneficial and not prejudicial to the workmen their consent is not really necessary in many cases. Apart from that, even if the law of Trusts requires sanction of the trustees to be taken, the banks are in a position, in our opinion, to get the alterations made through the instrumentality of the trustees who in the majority of the cases are found to be more or less nominees of the banks. In any case, where the main parties concerned viz. the employer and the workmen want certain modifications to be effected we do not see how there could be any moral justification for the trustees to interdict the same by their non-approval or inaction. We are satisfied that no responsible authority will act in such a way as to infringe our directions. We have not therefore felt it necessary to add the trustees formally as parties. We have no doubt that the banks are in a position to implement our directions and get the necessary alterations even in the existing schemes made with the co-operation, wherever it is needed, of the trustees. In some cases even under the present rules the banks themselves can have the alterations made. Where there is a will there is a way.

373. If for any reason there should be any technical difficulty in doing so, the banks can start a new provident fund. Such a direction was given to the Central Bank of India by the U.P. Government in connection with the implementation of Shri B. B. Singh's Award regarding enhancement of the rate of contribution to the provident fund. The existing employees will be allowed to join this fund in addition to their membership of the existing fund. To the new fund of course they will be contributing only the difference, if any, between the rate of contribution now fixed by us and the rate for the previous fund. It was suggested that the employees might be credited with the amounts standing to their credit in the existing account, the same being taken over to the new account and the old account closed so far as they are concerned. The banks pointed out certain difficulties in respect of this matter, particularly the income-tax liability. On the other hand, it was conceded before us that two distinct funds are legally possible and not unworkable. However, on the whole, the banks objected to the unnecessary complication of a second fund. We agree that this is a step that should be avoided unless it is absolutely necessary. We do not however anticipate any real or practical difficulty in getting the existing rules altered. When Shri B. B. Singh's Award was enforced by the Government of the United Provinces the concerned banks had no real difficulty in getting their existing provident funds amended even though the trustees were not made parties to that adjudication. This is significant and justifies the observations which we have made above.

374. In any case, we wish to make sure that our direction regarding the increased rate of contribution should be brought into force effectively. We accordingly direct that until the existing provident fund scheme is suitably amended or a new fund or funds are suitably framed so as to provide for the benefit of the increased contribution as fixed by us, the banks should pay monthly to each of the workmen a special allowance, called "the provident fund excess contribution allowance", so calculated as to make up the difference between the amount now allowed to be contributed and the higher amount fixed as per our directions given *supra*. This allowance is to be paid only till the regular provident fund scheme as contemplated by us or with the alterations suggested by us comes into existence. When the benefit of such extra contribution to the fund is made possible to the workmen this special allowance shall cease. We realise that this direction to some extent makes the bank's contribution immediately payable to the employee, as part of the monthly emoluments instead of a payment in future. It cannot be helped. We do not contemplate this allowance except as a transitory provision to meet the contingency that on account of technical and legal difficulties the bank is not in a position to alter the provisions of the existing provident fund scheme.

375. We have recognized the claims of the workmen to representation on the Board. The fact that the administration of the fund has not been shown to be in any way improper in the past does not negative the claim based on principle for representation advanced by the workmen. We have however provided only for a limited extent of representation which we think is sufficient under the existing conditions, and which at the same time recognizes the principle advocated by the workmen, without in any way affecting the skill or power necessary for administering the fund properly. A demand for election of their representatives has been made before us. We disapprove of this method in the present conditions, and we leave it to the banks concerned to devise proper machinery either by convention or by rules so as to provide for the representation of workmen to the extent necessary.

376. The demand for interest at the rate of five per cent. cannot legally be sustained in view of Section 282(B) of the Indian Companies Act. It is open however to the banks to allow each year more than what is earned by way of interest on the investments, not as a matter of right but as an *ex-gratia* payment.

377. We have provided for a minimum service of five years only to enable a workman to participate in the bank's contribution. We have provided for a graduated scale for those who have put in 5 years to 10 years service, and thereafter for full payment. The banks wanted a longer term of 10 to 15 years as the minimum period and emphasized the character of the provident fund as a *retiring* benefit. We have already stated our view that it is a part of the wage structure also. In any case we think a graduated scale like the one we have laid down is just and proper. The demand for advances by way of loans from the provident fund has been recognized on the lines of the Model Provident Fund Rules. It must be remembered that a provident fund is intended to be a sort of provision for the workman and his family, and not as a sort of current account which he can easily operate upon. Strict conditions are necessary when advancing loans in such circumstances. Besides, the rules framed under the Indian Income-tax Act cannot be allowed to be infringed if recognition is to be obtained.

378. We have fixed $6\frac{1}{2}$ per cent. and $8\frac{1}{2}$ per cent. of the monthly emoluments as the rates of contribution. The demand before us was for $12\frac{1}{2}$ per cent. contribution. Shri B. B. Singh, it is true, awarded in the case of some bigger banks in the U.P. as much as 9½ per cent. Our attention was drawn to Appendix 5 at pages 184 to 186 of the publication of the Government of India, "Industrial Awards in India—An Analysis". That gives the rates of provident fund and gratuity for various concerns as recommended in various awards. Broadly speaking, the range has been between $6\frac{1}{2}$ per cent. and $8\frac{1}{2}$ per cent. though in rare cases 10 per cent. has been given. We have also been referred to the rates in several commercial concerns, in Bombay. On the whole, we think, the rates fixed by us are adequate, reasonable and are within the financial capacity of the banks, and any higher rate should not in the present conditions be imposed upon the banks.

379. The rates of contribution fixed by us as above are to apply to all the workmen throughout India, even though in some banks or in some branches in certain regional areas the present rates are higher. Our scheme of salaries and allowances and retiring benefits are generally so applicable in the interests of uniformity except where our award makes special exceptions and provides otherwise. This principle was also accepted on behalf of the workmen, though some of them may find existing emoluments more favourable in some respects. It is of course open to the banks to give more favourable terms at their discretion.

380. As in our view the rates of contribution to the provident fund *viz.* $6\frac{1}{2}$ per cent. and $8\frac{1}{2}$ per cent. should be uniformly applicable in the case of all the Indian banks, we think it better to add specifically that the banks whose existing provident fund schemes provide for higher rates should have the liberty to adopt the new rates fixed by us with effect from 1st April 1953, but prior contributions of the bank are not to be readjusted. As in the case of some of these banks we find that there is no regular compulsory gratuity scheme, and as we are introducing one such to be applied to all these banks, we think it is only just that the banks should have the liberty to adopt the lower rate if they are so minded.

381. Mr. Vimadlal contended that the dispute relating to the terms of a provident fund is not an industrial dispute at all. He argued that it was a dispute of the workmen with the trustees of the fund, and not with the employer. We do not agree with this contention. The real dispute is between the workmen and the banks as to what should be the terms of a proper provident fund scheme. It is therefore an industrial dispute as defined under the Act. Even if the trustees are to be made parties to such a dispute for effective adjudication thereof, the dispute will not cease to be an industrial dispute. We hold therefore that we have jurisdiction to go into the dispute and give our award and have accordingly given our directions.

SECTION II—Imperial Bank of India

382. The provident fund of this bank is governed by the Provident Funds Act (Act XIX of 1925). The appropriate notification for including this bank in the list of institutions mentioned in the schedule to the Act was made long ago. This provident fund therefore gets certain special advantages which are not usually available to other provident funds. Section 3 of the Act gives protection to compulsory deposits which cannot be assigned or charged or attached under any decree or order. Again on insolvency the fund will not vest in the Official Receiver or Official Assignee. Neither will it be an asset of the deceased member liable for his debts (Section 3, clause 2 of the Act). These are valuable advantages for the subscribers which should be preserved. There are also other facilities which are given by the Act. It is not in the interest of the employees of the Imperial Bank of India that their provident fund should lose the benefit of being governed by the Provident Funds Act. Counsel on their behalf realised this and stated on instructions that the employees did not want to sacrifice the benefit of such advantages, and would be content with such modifications of the existing provident fund as the Tribunal considers just and proper to meet their claims. We were taken through every rule of this fund by Counsel on both sides. The final result of the discussions before us was that the existing rules might well be left as they are, except the rule relating to forfeiture consequent on dismissal from service. The demand on behalf of the workmen was in the first instance for a contribution at the rate of $8\frac{1}{2}$ per cent. of basic pay and dearness allowance. Later on it was raised to $12\frac{1}{2}$ per cent. of basic pay alone. It is true that in the Employees Provident Funds Act, 1952 the legislature has recognized that provident fund contribution may be not only on basic pay but also on dearness allowance. But generally the rate is fixed with reference to basic pay excluding dearness allowance. Mr. Phadke for the workmen accordingly claimed $12\frac{1}{2}$ per cent. of the basic pay only omitting dearness allowance. The statement of accounts for the last financial period ending with 31st March 1952 was shown to us by the Bank. The amounts standing to the credit of the fund came to Rs. 2½ crores or so. It is a big fund. We have been asked not to interfere with the rules constituting and governing the administration of such a fund. We realise the force of these submissions. We think however that the present rate of 5 per cent. which was introduced in the scheme when it was originally started in 1922 is too low and an increase is long overdue. We are of opinion that the rate of contribution should be increased to at least $8\frac{1}{2}$ per cent. as in the case of major Indian banks. The bank's contribution must be an equal amount. The burden of the increase is not beyond the capacity of this institution. The legal difficulty of the absence of the trustees has also been passed before us. There are applications before us to implead them and give a direction. We do not however think it necessary to do so as we feel that there will not be any real difficulty for the Bank to have the rules altered so as to provide for the increased rate of contribution. We accordingly direct that alteration of the rules to provide for a contribution at the rate of $8\frac{1}{2}$ per cent. In case there is any real difficulty in getting the same altered due to the fact that the concurrence of the trustees is not obtained or for any other reason whatever, we direct that until the rules are so altered a special monthly allowance called the "provident fund excess contribution allowance" should be given to the workmen to cover the difference between the existing rate of 5 per cent. and the rate of $8\frac{1}{2}$ per cent. which we have fixed.

383. On the claim for representation on the Board of Trustees—one representative from each Circle nominated by the Association—we do not think it necessary to direct an alteration of the existing rules.

384. As regards the question of forfeiture consequent on dismissal, the Labour Appellate Tribunal has taken the view that in the case of bonus there should not be any forfeiture except where the misconduct of the workman has caused financial loss to the employer. Even in such cases the amount can be withheld only to that extent. In our view the same principle applies with greater force in the case of contributions to provident fund. Our attention has been drawn to the legislative provision contained in Section 6 clause (b) of the Provident Funds Act (Act XIX of 1925) whereby the legislature has given freedom to the authorities of the fund to deduct therefrom the whole or any part of the amount of the employer's contribution and interest whenever such workman is dismissed for specified reasons, even if such dismissal is not due to misconduct causing financial loss to the employer. Section 58(C) of the Indian Income-tax Act was also referred to, where again the forfeiture is not limited to cases involving financial losses alone. Our attention was also drawn to Rule 13 of the Provident Fund Rules which, even in cases of

dismissal, gives discretion to the Board of Trustees to modify the rigour of the rule relating to forfeiture and permit some payment in proper cases. We still recommend that suitable alterations may be made in the existing rules for the above purpose.

385. A demand was made that interest at the rate of 5 per cent. should be given. It was pointed out that for several years from the beginning that was the rate, and it was only latterly that it was reduced. The rule as it stands since 1947 provides for a minimum of 3 per cent. It was pointed out that the amounts of this fund are really left with the Imperial Bank which pays 5 per cent. interest to the fund. It was urged therefore that the demand of the workmen was reasonable. It cannot however be assumed that 5 per cent. is really earned by the use of this fund. It was stated that the Bank with a view to stabilising the fund makes a contribution of 5 per cent. as and by way of interest for the use of funds. We are not in a position therefore to lay down an absolute rule that the minimum rate of interest should be 5 per cent. as demanded by the workmen. We think on the whole the present rule may be allowed to stand as it is.

SECTION III—The Exchange Banks.

386. In the case of the Exchange Banks certain additional considerations have to be borne in mind. They claim to be global institutions, and their policy regarding bonus, provident fund, gratuity and pension is stated to be governed by a common policy laid down by the directors at the Head Offices outside India. Nonetheless, we cannot decline to make suitable provisions for their workmen merely because these institutions are of a global character. So far as the provident fund is concerned we are of opinion that the minimum rate of 8½ per cent. that we have fixed for A Class banks should apply equally to all these banks. Most of them are providing only 5 per cent. now. We think an increase is called for. We direct accordingly that such of these banks in which the present rate is less than 8½ per cent. should increase the rate of contribution to 8½ per cent. on both sides. We make it clear that the banks (we believe there are two such banks) which are having higher rates than what we have fixed are not to reduce them. We have been taken through some of the existing rules of some of the important banks. In some cases the rules can be altered by the banks themselves or by the directors. In a few other cases the concurrence of the trustees may be required. In any case, as stated already, we do not think there is any practical difficulty in getting the concurrence of such trustees, and it can be done. Until then, in order to effectively implement our decision we direct that the workmen should be paid a special "provident fund excess contribution allowance", made up of the difference between the existing rate and the rate fixed by us, wherever the existing rate is less. In the matter of representation of workmen however there may be difficulties with regard to the funds of these Exchange Banks, and we therefore exempt such banks from the relevant directions in the general scheme laid down by us. In other respects we do not apprehend any serious difficulty in implementing the main provisions of the scheme laid down by us which are applicable to these banks as well.

CHAPTER XIX

Item No. 14.—Gratuity.

387. Item 14 in schedule II to the reference reads as follows:—

"Gratuity including whether it should be compulsory or *ex-gratia*. Does the scheme recommended by Shri B. B. Singh for the U.P. in his award need revision?"

388. Retiring benefits are generally of three kinds: (1) Provident Fund, (2) Gratuity and (3) Pension. In recent times a combination of one or other of these things is also coming into vogue. It is now settled beyond dispute that more than one kind of retiring benefit is legally permissible. This was conceded by the banks. The bigger banks had no objection to two retiring benefits, viz. provident fund and a gratuity scheme. Small banks objected to more than one retiring benefit. None of the banks approved of all the three kinds of retiring benefits being provided for. The National City Bank of New York in particular submitted that it should not be made to pay gratuity or pension for the reason that its scale of pay and dearness allowance were on much more liberal terms than those of other banks and that it was contributing 10 per cent. of the basic salary to the provident fund. There was also a suggestion that if any extra benefit were to be permitted, it should be set off against any excess payments made by the banks over and above the scales of pay and dearness allowance etc. to be laid down in this award.

389. We have already provided for a compulsory provident fund scheme for the benefit of workmen. The question now is whether in addition there should be a compulsory scheme of gratuity or pension. A claim for gratuity can no longer be regarded as a mere *ex-gratia* matter. It is as much the subject of an industrial dispute as a claim for bonus. It is true that in many of the banks gratuity though provided for is generally on an *ex-gratia* basis. We are, however, of opinion that in the present circumstances of the banking industry, a compulsory gratuity scheme should be introduced. The Sen Award observed in paragraph 253, "It is an elementary principle that an employee who has served an institution during the best part of his life should not, on his retirement, have to face the prospect of starvation, indebtedness or dire poverty; and it should also be accepted that if an employee dies while in service or shortly after his retirement his family should have some provision to fall back upon at least for a time. In old days many an employee, even in a humble situation, could hope to save something against a rainy day; but in these days of high cost of living the chances of saving anything substantial are dwindling greatly, if not disappearing, for a great many employees of the lower middle class." We respectfully agree with these observations. Indeed, the underlying principle has been already recognized to a great by many of the major banks although gratuity is paid only as an *ex-gratia* payment. In practice, it is never withheld and we have been assured that it is given on a generous scale. Even where a provident fund scheme exists there is scope and need for a scheme of gratuity as well. We are therefore of opinion and we direct accordingly that except where there is a scheme for a non-contributory pension, and an employee is actually allowed a pension under such a scheme, a gratuity should be paid to all employees who are covered by our award. In other words, while payment of gratuity and payment of pension may be exclusive, one such payment at least must be made to the workman in addition to the benefit of a provident fund scheme, subject however to such exceptions as are laid down later on.

390. It was argued before us that gratuity even where it is to be made compulsory should not be directed to be paid except after a full career of service in the bank, i.e., it should be paid only retirement or only in special cases of death or permanent disablement while in service, subject however to a minimum period of actual service. In cases of voluntary retirement or resignation before attaining age of retirement, no gratuity should be payable. It was stated that it would be unjust that employees should be trained in banks and after getting suitable training and experience they should leave that bank's service at their will and receive gratuity as well, while at the same time they are in a position to place their services at the disposal of rival concerns. Some banks also urged in the interest of the employees themselves that an easy facility to obtain gratuity on mere resignation or voluntary retirement is a temptation in the way of improvident workmen who, as experience shows, after yielding to it realize the impropriety of their act and wish to rejoin the bank's service. Notwithstanding these contentions, we think that even in the case of voluntary retirement or resignation after a fair length of service, gratuity must be paid. Some existing schemes contain a provision that an employee dismissed for dishonesty or disobedience should forfeit his claim for gratuity. When dealing with the question of bonus we rejected such a condition. Two decisions of the Labour Appellate Tribunal have laid down generally that where an employee is dismissed for misconduct he is not entitled to gratuity [see 1951 (2) L.L.J. 31 and 1952(1) L.L.J. 35]. No distinction is made between misconduct in general and misconduct resulting in financial loss to the company. In the full bench case, 1950(2) L.L.J. 1247, while dealing with the question of bonus payable in the textile industry of Bombay all the five Judges of the Court deleted a condition which had been inserted by the lower Tribunal that no bonus should be payable to employees who had been dismissed for misconduct. The Court agreed with the reasons given by the Sen Tribunal at paragraph 242 of their award. In a later decision the Appellate Tribunal held that bonus could be withheld where there was financial loss caused by the misconduct of the employee. If this is the true principle in relation to bonus, such a principle should apply also in relation to a gratuity scheme. Like bonus, a claim for gratuity also can no longer be regarded as a mere reward or pure *ex-gratia* payment. It is given in order to make labour contented and forms part of the total emoluments of the workers for their service. Failure to pay gratuity gives rise to an industrial dispute just as a failure to pay bonus does. In "The Indian Humpie Pipe versus Nanavaty" (1948 Bombay Law Reporter 551) Sir Leonard Stone, Chief Justice says that gratuity is not a mere patronage or bounty. Where it is demanded and refused and a strike action is threatened all the elements of a trade dispute arise. We have made a compulsory provision for gratuity. Even as bonus is related to the question of the living wage, gratuity also is in a substantial sense a claim that is referable to considerations of deferred pay and living

wage. In this view we will be only following the principles laid down in the full bench decision of the Appellate Tribunal when we apply them to cases of gratuity as well. The latest decision of the Labour Appellate Tribunal also supports this view [1953 (1) L.L.J., 238]. We hold accordingly that there should be no forfeiture of gratuity even for dismissal on account of misconduct except in cases where such misconduct causes financial loss to the company and in that case to that extent only.

391. We shall now turn to what the scale of gratuity should be. The original demand was that all permanent employees whose services were terminated on any ground other than misconduct in connection with their employment proved in a Court of Law and who were not eligible for pension should be entitled to receive over and above the provident fund amount, an amount equivalent to two months basic pay and allowances for every completed year of service at the rate of basic pay and allowances last drawn with a minimum of six months' basic pay and allowances and in the case of death of such employee his nominee or legal heirs be entitled to the said sums; but during arguments it was limited to three-fourths of a month's salary for each year's service with no maximum prescribed. The banks have contended that the general trend of decisions of the industrial tribunals and particularly of the Appellate Tribunal is in favour of two alternatives: (1) one month's salary for each year of service subject to a maximum of 15 months' salary or (2) half a month's salary for each year of service with no maximum limit. It was submitted that the banks prefer the latter course as it would give a little more to people with longer service than 30 years—a case which not infrequently happens in bank service. The major banks had no objection to the first alternative if the workmen so desired.

392. We prescribe the following scale:—

Banks in Group 'A'

(1) On the death of an employee while in service of the bank, one month's pay for each completed year of service subject to a maximum of 15 months' pay to be paid to his heirs, executors, assignees or nominees.

(2) On an employee becoming at any time physically or mentally disabled to continue further in service, or on termination of service on grounds other than retrenchment after 10 years' total service, gratuity at the same rate as above. (Gratuity payable in case of retrenchment is provided for elsewhere).

(3) On voluntary retirement or resignation of an employee after 10 years' continuous service, gratuity at the same rate as above.

Banks in Group 'B'

Gratuity is payable at the rate set out above, as applicable to A group banks, the maximum being 12 months' pay.

Banks in Group 'C'

Gratuity is payable at the rate specified for banks in A group, maximum being limited to 9 months' pay.

Banks in Group 'D'

Gratuity is payable at the rate specified for banks in Group A, the maximum being limited to 6 months' pay.

393. We are further of opinion that substantially long service should be specially recognized and we therefore direct that where a workman has put service of over 30 years he should be paid an extra amount at the rate of an additional half a month's pay for each completed year of service beyond 30 years. To that extent the maximum provided in his case will be increased.

394. Length of service shall be calculated as the total period from the day of initial appointment (whether permanent, temporary or on probation) in the bank to the day of retirement from bank's service. In cases where employees formerly employed in areas now known as Pakistan are re-employed in India after 15th August, 1947, even after a break in service, the aggregate of their total services in both areas must be taken as the total period of service.

395. The pay, for purposes of calculating the gratuity, shall be the average of the basic pay and special allowance and officiating allowance drawn during the 12 months next preceding death, disability, retirement, resignation or termination of services, as the case may be. A bank will have the liberty to grant gratuity in excess of the scale set out above in its discretion. It is hoped that in proper cases they will do so because what we have prescribed is only the minimum.

396. Wherever a scheme of gratuity now in existence in a bank is more favourable to the employee than the one laid down by us, the benefits of such a scheme shall continue to be enjoyed by its employees.

397. Where no regular gratuity scheme is in existence, we think it is but right that some time must be given for the banks before we make it obligatory on them to pay gratuity. We therefore direct that where there has been no regular scheme for payment of gratuity, the scheme directed by us shall come into operation 2 years after the publication of this award and that in such a case the service of the employee at the date of such publication shall be counted at one half of its length for the purposes of calculation of the gratuity payable. Until then banks should not withhold the benefit of *ex-gratia* payment which they have been making as a matter of practice in the past. No particular amount can, however, be prescribed by us.

398. The benefit of the gratuity scheme framed by us shall be available also to employees who might have retired or resigned or whose services might have come to an end in any one of the ways recognized above at any time after 5th January, 1952, the date of reference of the dispute to this Tribunal.

399. We direct that gratuity should be paid to a workman even if he enters service of another bank notwithstanding any condition to the contrary in any existing scheme of gratuity and there should be no such condition in any new scheme.

400. Income-tax and super-tax, if any, payable on gratuity granted to a workman shall be borne by the bank.

401. It was stressed before us that gratuity is a long term scheme and banks should have an adequate gratuity fund before a compulsory obligation of this sort should be laid down. It is not necessary in law that there should be a distinct gratuity fund set apart for that purpose. Many banks are even now paying gratuity, without there being such a fund. No doubt, it may be desirable to have an adequate fund, but that is another matter. In our opinion a compulsory gratuity scheme need not be delayed until an adequate fund is accumulated.

402. We have to consider the special case of those workmen who have not had the benefit of either a provident fund or a gratuity. Where there has been no provident fund in existence at all in any bank prior to our award, we have directed that such a fund should be started within four months of the publication of our award. In such a case, it is not possible to provide for the existing employees being initially credited in their account with an amount equal to the bank's contribution at the prescribed rate according to their length of service as if the fund had been in existence from the time of their confirmation in the service. We rejected this demand which was put forward on behalf of the workmen. Apart from other considerations there has been no award which has directed such a retrospective effect in the case of a newly created fund. Further the initial contribution to such funds may not get exemption from income-tax. For these and other reasons, that course is not feasible or desirable. There is, however, force in the contentions of the workmen that in respect of a large number of employees who might have put in fairly long terms of service already the benefit of a new provident fund will in their case be appreciably inadequate. We agree that their case deserves special treatment. The only way of meeting the same satisfactorily is to provide an additional gratuity for them as a special case. We accordingly direct that an *additional gratuity* calculated at the rates as above should be paid to them and for this purpose their length of service will be computed at half the number of full years of completed service from the day of initial appointment (whether permanent, temporary or on probation) in the bank. The question also arises whether an additional gratuity on somewhat similar lines but though on more reduced scale should be given for the benefit of those people who had not been allowed to join the existing provident funds in the past during several years of service after confirmation or where the existing rates of contribution have been lower than what we have prescribed. We realize that in their case also there is some hardship as the benefit of the new improved provident fund scheme will be made available to them for some years only. We direct that in cases where a workman was not allowed to join an existing provident fund after confirmation he should be given *additional gratuity* on the scale set out above for the period from the date of his confirmation to the date of his joining the fund, the length of service being calculated for this purpose to the nearest full year. We do not provide a similar or analogous relief in cases where the rates of contribution are raised as a result of our award.

403. The question of gratuity in relation to the Imperial Bank of India requires further consideration. Normally a third benefit is not to be given in the present condition of the industry. In the case of the Imperial Bank of India, there is a provident fund, as also a pension and guarantee fund. For reasons which will be found stated later on when we deal with the question of pension fund, we are of opinion that the 5 per cent. contribution for the pension fund by workmen should now be stopped. We would normally have provided for the abolition of the 5 per cent. contribution from the workmen in the Pension Fund itself if this had been agreed to by the Bank or legally possible to be carried out by it. We would have adopted that course, but on account of certain technical difficulties urged in the way of giving a direction which we have discussed elsewhere we decided that the pension fund may be left undisturbed for the present so far as this matter is concerned, but the same objective could be achieved by directing a special gratuity of an amount equal to the amount of the contribution by a workman and the interest thereon as standing to his credit in the pension section of that Fund. We direct accordingly. This fund should be made to the workmen by way of an additional payment over and above what he or his representatives will be getting under the rules of the Pension Fund as they are now. Mr. Lawrie for the Imperial Bank of India argued that a third retiring benefit should not be provided for. This is actually not providing for a third benefit. The direction appears to take the form of a third benefit but in truth it is nothing more than improving the terms of the Pension scheme in the light of our conclusions regarding the contributory portion of the pension fund. Where a pensioner dies before his own contribution to the pension fund is exhausted, there is really no benefit to him or his legal representatives by way of pension, even when the unexhausted balance of his own contribution is paid to his heirs. In such cases the workman is really having only one retiring benefit by way of a provident fund. Mr. Lawrie suggests that even in such cases compound interest and exemption from income-tax liability by reason of the recognition of the Superannuation Fund under the Indian Income-tax Act are extra benefits to him. In our opinion these are too small and incidental benefits which do not deserve the dignity of being characterised as a retiring benefit. The Imperial Bank of India's workmen will in such cases have really fewer retiring benefits than workmen of the major Indian banks. An extra special gratuity is therefore just and reasonable.

404. The second portion of this item of dispute is whether the scheme recommended by Shri B. B. Singh in his award for the U.P. needs revision. As the directions given by us are different they will now replace Shri B. B. Singh's recommendations in this behalf.

CHAPTER XX

Item No. 15: Pension Scheme

405. Item 15 of Schedule II to the reference reads as follows:—"Pension, including the question whether any pension scheme should be introduced in banks having provident fund and/or gratuity schemes."

406. Most of the banks before us have no pension schemes. We have already provided for a compulsory provident fund scheme and also gratuity on a compulsory basis. Although there are some demands for the introduction of pension schemes they were not really pressed during arguments. The question was really confined to the revision of the existing schemes in such of the banks as have pension schemes. Several modifications of the existing rules were demanded with a view to improving the schemes in the interests of the workmen.

407. At present there are pension schemes in the following banks:—

1. Allahabad Bank Ltd.
2. Calcutta National Bank Ltd. (in liquidation).
3. Chartered Bank of India, Australia and China.
4. Grindlays Bank Ltd.
5. Hyderabad State Bank.
6. Imperial Bank of India.
7. Lloyds Bank Ltd.
8. Mercantile Bank of India Ltd.
9. National Bank of India Ltd.
10. Netherlands Trading Society.

408. We will deal with the Imperial Bank of India separately. As regards the other banks, in some there are written rules and provisions for pensions while in others, pension is being given, as a matter of discretion, though it is generally not withheld. Even where there are rules and regulations, these expressly state that it is in the discretion of the Bank to grant the pension. It was urged that this

discretion should be removed and pension should be given as a matter of right. It was admitted, however, that in actual working, pension was being given almost as a matter of course and that it was very rarely withheld. There was no complaint against the administration on this point. The rules of the Chartered Bank of India, Australia and China provide for one-third to one-half of average salary of the last five years by way of pension. The length of the qualifying period for pension, the actual rate at which pension is given and other conditions are not uniform. We are of opinion that it is not desirable at this stage to standardize the various rules and provisions now in force and adopted by the various Exchange Banks as they are stated to apply to all its workmen not only in India but also elsewhere. We have thought it necessary, however, to provide for gratuity being given on the scale we have laid down in the chapter relating to gratuity in all cases where a pension is not actually given to a workman by any of these banks. It was forcibly argued before us that the benefit of the pension that is being actually given by the important Exchange Banks is very much greater than the gratuity which is normally being paid by comparable concerns or laid down by awards. We agree that the pension schemes, such as they are, are really more advantageous to the employees than the gratuity awarded by us. So when we provide for a gratuity in cases where pension is not given, is not at all our intention that employees should in any way be deprived of the advantages or benefits accruing to them under the existing pension schemes or that our gratuity scheme should replace the pension schemes merely because the pension schemes happen to be discretionary. We have no doubt that the Exchange and other banks will continue their present policy of giving retiring benefits on the scale now in force and will not think of reducing such benefits merely because the award provides for a lesser amount on the basis of a gratuity scheme. The object of making the gratuity scheme also applicable is only to ensure that so much at least of a retiring benefit either by way of gratuity or by way of participation in a pension should be available to the workmen as a minimum. It is however to be distinctly understood that a person who is awarded a pension and elects to get it cannot claim the benefit of the payment by way of gratuity so far as these banks are concerned. On behalf of the National City Bank of New York it was urged that their salaries are generally high as also the amount of dearness allowance which they grant and that their contribution towards provident fund is 10 per cent. They want that they should not be made to pay either gratuity or pension or if one or other of the schemes should be forced on them they should be given credit for the extra amount which they are paying under other heads and should be allowed to adjust the same. A similar claim by them was rejected by the Sen Tribunal. This Bank and some of the leading Exchange Banks are undoubtedly big banks who can afford to pay a living wage at any rate higher wages than what we have fixed. Although for the purposes of wage scale we do not put them on a higher footing than the leading Indian Banks for the purposes of retiring benefits the position need not be the same. In fact, they have been paying much larger benefits in the past, which is almost conclusive of their capacity to pay and the propriety of such payments. We therefore think that there is no discrimination made against these banks even if it involves paying more than what other major Indian Banks are asked to pay. We do not therefore grant the claim for exemption or modification which is urged on behalf of the National City Bank of New York.

409. Shri B. B. Singh in his U.P. Award made the grant of pension by the National Bank of India Ltd., the Chartered Bank of India, Australia and China and the Allahabad Bank Ltd., compulsory and directed that all clerks who had put in 30 years of service or had completed 55 years of age should be given as a matter of right one-half of their average salary drawn during the last three years. (The U.P. Government have since terminated B. B. Singh's Award regarding pension applicable to the Allahabad Bank Ltd.) We have been asked to give a similar direction. The Sen Tribunal did not think it proper to remove the condition about the discretionary character of the pension scheme or to give directions modifying the provisions thereof. We are also of the same opinion. We do not give any directions in this matter but at the same time we think the banks themselves should consider the question of the revision of these rules with a view to improving the benefits payable under their schemes. Such rules should, in our opinion, provide for (1) Invalid pension after 15 years of service, (2) Proportionate pension on voluntary resignation by the workmen after 25 years of service, (3) Amount of pension to be calculated on number of years of service divided by 50 multiplied by average salary during the last three years of service; and (4) Commutation facilities. Beyond these recommendations we do not think it right for us to direct any modifications.

410. We will now deal with the Imperial Bank of India. This Bank is governed by a special Act, the Imperial Bank of India Act, (XLVII of 1920). It

1921, it started a pension and guarantee fund. There was provision for a contribution by the employees of a certain percentage from their salary towards the Pension Fund. It would appear that upto 1931 no such contribution was required to be made. Thereafter, owing to trade depression, the Bank retrenched the salary of its employees and also provided by alteration of the rules of the Pension Fund that a compulsory contribution of 5 per cent. of the salary should be made by employees eligible for pension.

411. The main demands with respect to this Fund are:—(1) the employees' compulsory contributions should be stopped; (2) the amounts contributed till now must be refunded to them; (3) the pension to be provided for should be 50 per cent. of the employee's last pay; and (4) all employees should be pensionable.

412. A legal contention was raised before us that the Pension Fund is vested in Trustees and that no directions could be given for the alteration of its provisions in the absence of the Trustees. We have dealt with a similar contention in relation to Provident Fund. It is unnecessary to deal with the matter fully again. In this case, however, we are of opinion that Trustees need not be made parties as requested by the employees' Counsel and no directions need be given to them because we intend to deal with the question of 5 per cent. contribution now made compulsory. With regard to other matters we only recommend that a revision of the Pension Fund rules is desirable with a view to providing greater benefits to the workmen. We do not think it proper to go further than this, in view of certain figures disclosed to us in the documents and accounts submitted and claimed to be confidential under Section 21 of the Industrial Disputes Act. So far, however, the question of contribution is concerned it may be noted that both Shri Gupta in his Award for the workmen in Bengal Circle and the Sen Tribunal recommended that this contribution should be stopped and the Bank should give pension from its own funds without the help of employees' contributions.

413. Mr Niren De from Calcutta who argued for and on behalf of the employees strongly pressed for the abolition of this rule relating to compulsory contribution. He admitted, though only for the proceedings before this Tribunal, the validity of the Trust Deed and the constitution of the Pension and Guarantee Fund. He reserved to himself the right to question them elsewhere. He also did not press for relief as regards the refund of the contributions made in the past. He reserved the right to take proceedings elsewhere with respect to that matter if so advised.

414. The Bank objected to this demand and pointed out that the Fund is being steadily built up on actuarial basis to safeguard and secure the pension payable to its employees and that notwithstanding very large contributions made from time to time by the Bank itself from out of its profits, the contributions from their employees were necessary to keep the Pension Fund at the required figure and that latterly due to heavy increase in the pay-scale the Fund could only with difficulty be brought up to the required level. The need for employees' contributions was therefore still present. We have considered this matter very carefully. We find from the statement of accounts filed by the Bank in relation to this Fund that the apprehensions of the Bank on this part are not wholly justified. The position both in respect of its general profits as well as the earnings out of this Pension and Guarantee Fund is such that for some years to come the absence of employees' contributions would not really create any difficulty for the Bank. The Bank also pointed out that contributory pension funds are not unknown in other countries and referred us to some institutions which provide for such contributory funds. This is no doubt true; but generally speaking a pension ought really to be independent, if possible, of any contributions from the employees. On a rough calculation, it appears that for 3 or 4 years after retirement the members' own contributions generally suffice for payment of pension under the rules of this Fund. It is only thereafter that the general fund contributes towards employees' pension fund. In other words, there is really no pension earned by the employees from the Bank's fund during the first 3 or 4 years. Agreeing with the view of Shri Gupta and also of the Sen Tribunal we are of opinion that the employees' contributions should be stopped. The legal difficulty to which reference was made earlier has, however, got to be recognized. We could have made the Trustees parties and given appropriate directions to carry out our conclusions. We however think that the same objective can be achieved in another way. We direct that so long as these rules remain unaltered and provide for compulsory contribution by employees the Bank should pay a *special gratuity* to employees as provided for by us in our award in the chapter relating to gratuity. In this view it is unnecessary to deal with this matter here any further.

CHAPTER XXI

Items 21 and 16: Cash deposits, fidelity bonds, guarantee funds, etc.

SECTION I.—Cash deposits, fidelity bonds and other securities furnished by the staff

415. Item 21 of schedule II to the reference is as follows:—

“Cash deposits, fidelity bonds and other securities to be furnished by staff including the questions:—

(a) whether failure to furnish such security should operate as a ban on confirmation, and

(b) whether the scheme of security and guarantee introduced by the Punjab National Bank Ltd. is suitable”.

Item 16 is “Guarantee Fund”.

416. We shall first deal with cash deposits, fidelity bonds and other securities to be furnished by the staff. The demand under this head is that no member of the staff should be called upon to make any cash deposit or to obtain a fidelity bond at his own expense. All deposits hitherto made should be returned. Some Unions, however, admitted that members of the staff working in the cash departments might be asked to make fidelity bonds for which however the premium should be paid by the banks.

417. The existing practice in the banks may now be referred to. In one or two major banks, every member of the staff has to give a security. The Indian Bank Ltd., Madras, takes security from every clerk at progressive rates according to the nature of the work and at increased rates in places like Bombay. In some banks about a month's salary is asked to be deposited as security deposit. Generally, however, security is taken only from members of the staff working in the cash department, ledger keepers and also from godown keepers in charge of godowns. With reference to cashiers and assistant cashiers the general practice is to take some kind of security. Where what is known as the “Treasurer's System” is not in force, the head cashier gives a guarantee on behalf of all cashiers working under him. He generally takes security deposits from such people. Sometimes these amounts are put in a joint account of the head cashier and the concerned workman under him. In other cases, the bank does not concern itself with the deposits taken by the head cashier from the subordinates. The head cashier sometimes places a big deposit with the bank concerned. The Imperial Bank of India has a guarantee fund to which all employees drawing a salary of Rs. 100 and above have to become members and contribute to the Fund on a graded scale having regard to the salary drawn and the amount of security to be furnished. In the case, however, of employees drawing a salary between Rs. 100 and Rs. 149 the bank makes the contribution on behalf of the employees. Employees drawing a salary of Rs. 150 and above have to pay the contribution themselves. Head cashiers could contribute either to a “Head Cashiers' Fidelity Fund” or to the general guarantee fund the contribution being intended to cover additional responsibilities undertaken by them, over and above those of the general staff who contribute to the guarantee fund. In the Allahabad Bank Ltd. there is a special provident and fidelity fund for cashiers, different from the usual recognized provident fund. There is a clause which provides for a lien over the funds standing to the credit of the cash department staff in this special fund. The Punjab National Bank Ltd. has a guarantee fund scheme. The employees contribute to this fund which serves as a security to the bank.

418. The other system is known as the “Treasurers' System”. It is mostly in force in the branches of some banks in Northern India. This seems to have been in existence from a very long time past. There are certain firms and individuals employed as treasurers with whom contracts are entered into by the bank. The treasurers recommend the employees and guarantee their fidelity. They are appointed by the bank in the cash department. The treasurer is paid either in lump sum or on a scale calculated according to the number of employees. Usually when the treasurers discontinue their guarantee employees are not retained in the cash department. In the case of godown keepers at certain offices there are guarantee brokers who stand guarantee for them in consideration of some commission.

419. The foregoing survey of the existing practice reveals the need felt by banks to have some sort of security to cover financial loss that may be caused

by any fraud or negligence or by embezzlement of monies by workmen engaged in cash department and by those handling cash, valuable securities and other possessions. Where facilities for dishonest practice likely to involve the bank in loss exist there should be adequate safeguards for banks. On principle therefore we must hold that the need for deposits or other securities to be provided by such staff is made out. Even in other commercial establishments it is not unusual to take security from people who have occasion to handle cash. We are not satisfied however that there should be a general provision that every member of the clerical and subordinate staff should be called upon to give security. We think only the clerical staff in the cash department, ledger keepers and godown keepers in charge of stocks should be called upon to give individual securities of their own. Who all should be asked to contribute to a guarantee fund is however a different question.

420. What then shall be the form of security to be taken? It may be; (1) a cash deposit from the workman in proportion to the risks involved; (2) a fidelity bond to be furnished by the workman at his own expense; (3) a fidelity bond in the case of an individual workman at bank's own cost; or (4) a general or blanket fidelity bond or policy taken out by the bank to cover loss by fraud or dishonesty of a part or whole of the staff up to a specified amount.

421. Mr. Chari contended that the only proper method that should be directed is that the banks should take out a policy at their own expense, either as a general policy covering the staff or an individual policy with respect to each member, premium being paid by the banks. He argued that this was an organizational risk belonging to the business as such and therefore properly to be provided for by the bank at its own expense. He pointed out that the wage scale was not being fixed with reference to the special burden of an employee in relation to cash deposit or a fidelity bond at his expense.

422. It was, however, explained to us that what is known as a blanket policy for the staff is not practicable. In the first place, there are few insurance companies willing to take that kind of business. They do not give blanket policies for cash department staff alone but generally require that all the staff should be covered. The premium charged is heavy. There is also a franchise clause whereby the insurance companies are not to be responsible for any loss less than a substantial sum of about Rs. 20,000 or thereabouts. Further, the policies usually provide against a single defalcation only in any one year. Even where individual policies are sought to be taken by banks the references given to the insurance companies are not in many cases accepted by them. Moreover, the insurance companies desire that banks themselves should take securities of some kind from their cashiers so that the insurance companies might have an effective right of subrogation. These difficulties are pointed out to us and banks claim that blanket insurance is not a practicable solution of the difficulty. The only alternatives available are that of a cash deposit or a fidelity bond to be obtained by the individual concerned either at his own expense or at the bank's expense.

423. It was urged that the educational and other qualifications of persons employed in cash department and also of godown keepers are generally lower than the qualifications of workmen in other departments. This statement of the banks is challenged by the workmen as not correct. It was pointed out that some banks even now pay an extra allowance to cashiers over and above the usual pay scale. We have no materials before us to come to a conclusion in this matter one way or the other. Where cash deposits are given the banks generally allow a little higher interest than in other cases of deposits. Further, under the Indian Companies Act, staff security amounts have to be kept separate and cannot be used by the company except for purposes agreed to in the contract of service. Under Section 230 of the said Act all sums due to any employee from a provident fund, a pension fund, a gratuity fund and any other fund maintained by the company are given a preferential treatment in the matter of distribution of assets in liquidation proceedings. We are therefore unable to agree with the contention that the cash deposits should not be insisted upon in any case. As regards the payment of premium on fidelity bond we can see no objection to the workman being asked to bear the burden where he does not find it convenient to make a cash deposit for reasons of his own. If deposit or security in some form or other is incidental to that kind of employment in the bank it is not unjust or improper that the incidental burden of expenses in connection with it should fall upon the employee. We do not therefore accept the contention on behalf of the workmen that premium should necessarily be borne by the banks in such cases.

424. The amounts, for which such security may be taken, will naturally vary with the kind of work that is allotted to the various categories of workmen. No

arguments have been addressed to us as regards the quantum. We do not therefore lay down any directions under this head. As a general rule, however, the banks should not fix very high amounts but should as far as possible take such minimum amount only as is proper in each case.

425. We also direct that where security is required to be given failure to furnish the necessary security should ordinarily operate as a bar to confirmation, unless the management otherwise directs for special reasons. Where the workman is not able to give the necessary security, the banks should, if possible, transfer him to a post in which no security need be furnished. In such an event his confirmation, if otherwise warranted should not be withheld or postponed.

SECTION II.—Guarantee Fund

426. We next deal with the question of Guarantee Fund. There are at least three banks which have such funds, the Imperial Bank of India, the Punjab National Bank and the Indian Overseas Bank of Madras. We understand that there are at present no immediate proposals to introduce similar schemes in other banks, although we find it mentioned in the written statements of two or three big banks that it would be desirable to do so, particularly as the creation of a guarantee fund and the accumulation of a substantial amount in such a fund would render the abolition of the "Treasurer's System" easy and practicable. In this connection we may state generally that the workmen desire what is known as the "Treasurer's System" should be abolished and that all appointments in the cash department also should be made without the intervention of a Treasurer and directly by the bank which alone should lay down the conditions of their service. Mr. Lawrie for the Imperial Bank of India suggested that the question of the abolition of the "Treasurer's System" as such is not before us though it might come in an indirect way in connection with the dispute relating to guarantee fund and cash deposits etc. In the Imperial Bank of India this system seems at present to be in vogue only in Kanpur. Though in the Bengal Circle it was in vogue in some places, after Shri Gupta's award the system came to an end. The Central Bank, it is understood, has seven firms of Treasurers who guarantee the work of the cashiers in several of their branches. We do not direct the immediate abolition of this system as we think that it serves a useful purpose at present and may be replaced when a satisfactory scheme of guarantee funds is brought into existence. For the present, therefore, we give no directions. The conditions of service of cashiers guaranteed by the Treasurer will however be considered separately.

427. The workmen demand that there should be no guarantee Fund at all and that the existing guarantee funds should be wound up and closed and that the amounts contributed in the past should be refunded to them. The main ground of attack is that it penalises a large majority of honest and innocent employees for the dishonesty of a few. Objections are also taken to the contributions, as being illegal deductions from wages contrary to the Shops and Establishments Acts of certain States. Lastly, it was stated that in any case the contributions should be returned to the workmen if at the end of their career they have been found to be not involved in any fraud or embezzlement causing loss to the bank.

428. We do not see any objection on principle to a scheme of cooperative guarantee fund to which the workmen should be made to contribute. This kind of mutual assurance cannot be rejected off-hand as improper or inherently unjust. True, employees who may not be participants in any fraud are asked to contribute to such a fund but in the interests of the institution as a whole and as a general method of constituting a guarantee fund there is no good reason why all employees of the bank should not be called upon to make a contribution. In our opinion the rules of the said fund should, however, fix a really small contribution and must also provide for a return to the honest workmen of a large portion of the amounts contributed by them when they retire. Any scheme with these two essential provisions cannot fairly be objected to.

429. The Imperial Bank of India has been having a guarantee fund scheme from 1921 onwards and it has been working satisfactorily during the past 30 years. The Punjab National Bank Ltd., which for several years from its inception was taking only cash deposits from its workmen experimented with the system of taking blanket or general policies from insurance companies. Although for about three years or so from 1945 to 1947 that system was in vogue, they were not able thereafter to obtain renewals of policies or take out fresh policies on the above lines, insurance companies not being very enthusiastic to have that kind of dealing. Therefore they devised a scheme in January 1948, which was in force till 12th

August, 1950 when as a result of the Sen Award the working of the scheme has been temporarily put in abeyance. Similarly, in the case of the Imperial Bank of India the contributions to the guarantee fund have not been collected since August, 1950. We understood from these banks that is only a temporary arrangement and they are awaiting the conclusions of this Tribunal on the dispute relating to guarantee fund. They expressed a desire that the same should be continued.

430. We are of opinion that a guarantee fund as such is not only not objectionable but also desirable. We do not appreciate the attitude of the workmen in objecting to the payment of these small amounts by way of contribution. The scale of contribution is really very much less than what an insurance company will charge by way of premium and the amounts themselves are, in our opinion, not in any sense oppressively large but are really low enough. There is benefit to the bank and to the employee as well as he need not give a cash deposit. The employees should not grudge payment of a small contribution towards a cooperative guarantee fund of this sort, which is a satisfactory way of providing for cover against dishonesty and fraud of employees serving in a financial concern. We are therefore of opinion that a guarantee fund on the lines indicated by us as above is proper and desirable. In this matter, we respectfully differ from the views of the Sen Tribunal in their award.

431. It is argued that deductions from wages of the contribution amounts to the guarantee fund would not be legal and would contravene the statutory provisions of Payment of Wages Act and also of local Shops and Establishments Acts of certain States. All the relevant Acts were not placed before us nor was the question thrashed out as it should have been if the intention was to seek our decision on the legality of this rule in the scheme. No such decision was really asked for, though the point was raised in a general way. We are therefore not recording any conclusion on that aspect of the matter. If the deduction from wages is illegal then the banks have only to change the rule relating to the method and realisation of contribution. It appears, however, that some of these Acts have not been extended to banking industry and some permit of exemptions by the State Government of certain portions of the Act and in other cases the deductions are legal, where they are authorised by any competent Tribunal or authority. In so far as any authority of a competent Tribunal is required, we give that authority because, in our opinion, a guarantee fund scheme, as already stated, is a proper scheme for adoption. Subject to these observations we leave the matter without any decision on the question of legality.

432. It follows from the above conclusions that we cannot direct the return of the contributions hitherto made. It remains however to consider some of the rules and provisions in the said Fund and the desirability of altering them as demanded by the workmen.

433. We find that the Reserve Bank of India has a guarantee fund. The fund is for the purpose of accepting liability for losses occasioned by the dishonesty or negligence of an employee of the bank in the manner and on the scale fixed by the regulations. The rules provide that any employee of the bank may be required to provide security to the bank against the risk or losses caused by his dishonesty or negligence. In the event of loss to the bank arising out of the acts of a guaranteed employee the loss is first met from the special security, if any, taken from him and only thereafter from this fund but not exceeding the guaranteed limit. There is a provision for payment by way of bonus of a substantial portion of the employee's contribution to the fund on termination of service or transfer to an appointment for which security is not required. The bank makes no contribution to this Fund. The rate of employee's contribution now in force comes to only As. 10 per cent. per annum of the amount of the guarantee and the rates are decreased progressively after 10 half yearly payments. We are told that in practice about 90 per cent of the contribution is being returned by way of bonus on retirement or termination of service as the case may be. The regulations also provide for grouping of employees in sections.

434. The guarantee fund of the Imperial Bank of India is more or less of the same pattern as the guarantee fund to the Reserve Bank of India, the main features of which we have extracted above. (The Imperial Bank of India's scheme is the earlier one). There are two essential differences however. Unlike the Reserve Bank, the Imperial Bank also contributes to this Fund. In the case of the Reserve Bank of India Guarantee Fund there is a provision for return of a substantial portion of the amount contributed by the employee by way of bonus to the subscriber on termination of service. Rule 31 of the Imperial Bank of India Guarantee Fund, however, reads, "No premium paid for guarantees shall be repayable but shall become the absolute property of the Fund". From the confidential figures submitted to us by the Bank we find that large amounts from the accumulations in the Guarantee Section of its Pension and Guarantee Fund have

been transferred to the Pension Section of the Fund, which, it is stated, according to actuarial calculations, require strengthening. This proves however that the guarantee section of the fund, (including of course, the bank's own contributions) if it were a distinct fund and confined to its own objective, can very well afford to return to the subscribers a fairly large percentage of the contributions, as and when they retire from service. The needs of the Pension Fund should be met in other ways. We found that the pension amounts can be paid out from the earnings of the fund assets, as they are to-day and, at any rate, from the bank's current profits without undue strain or difficulty. That, however, is a different matter. It is true that some of the recommendations we have made with regard to improvements in the pension scheme might require a larger provision for the Pension Fund and there may not be scope for transfers of substantial amounts to the pension section if the guarantee fund rules provide for a bonus to the employees. This, of course, will be a manner which the bank will take into account in coming to their conclusions on the alterations of the rules regarding pension section of their Fund, but so far as the Guarantee Fund is concerned we are definitely of opinion that the bank should introduce a suitable rule on the same or similar lines as are contained in the Reserve Bank of India's Guarantee Fund Scheme, providing for a return by way of bonus of a substantial portion standing to the credit of the workman, on his termination of service. The Punjab National Bank scheme contains a similar provision; so also the scheme adopted by the Indian Overseas Bank. We direct accordingly that the Imperial Bank of India also should provide for this bonus.

435. As already stated, the Imperial Bank had ceased to collect the contributions from the date of the Sen Award and it was stated before us that the bank awaits our decisions on the Guarantee Fund. We may state that the several legal difficulties about absence of parties etc. was not raised before us in this connection, although possibly available to the bank. We take it that the bank wanted our opinion on the merits of the case and invited us to give the same and that is why no legal objection was raised.

436. Reference may now be made to what is known as the Head Cashier's Fidelity Fund of the Imperial Bank of India. This is on similar lines with the general guarantee section of the Pension and Guarantee Fund. There is no contribution from cashiers who get pay of less than Rs. 150 per month. It was stated that all head cashiers now get more than that. Mr. Phadke wanted that, in any event, all head cashiers who get less than Rs. 300 per month should be exempted from contributions. The status of the head cashiers is however a matter on which there is going to be no decision by us in this manner. After the Sen Award the Imperial Bank of India treated them as officers and not as workmen. In the present enquiry there was a claim that they come under the term "workmen" but after some discussion both the parties agreed that this matter may be left undecided for the time being as the workmen preferred to await the bank's final proposals regarding the scales of salary and allowances for head cashiers which are being revised by the bank. Both the parties agreed accordingly to leave the question open, reserving to themselves the liberty to raise an appropriate industrial dispute in case the revised salaries are not found satisfactory and acceptable. If, however, the head cashiers should be regarded as workmen it would be within our jurisdiction to deal with this Fund and the propriety of its rules, subject, of course, to other legal contentions. We have expressed our view already as regards the necessity of having a rule providing for return of a substantial portion of the contributions by way of bonus. This is, in our opinion, equally applicable to the case of such of the head cashiers as are really workmen and not officers.

CHAPTER XXII

Item No. 20: Medical Aid and Expenses

437. Item 20 is medical aid and expenses.

438. The demands for medical aid appear to cover wide ground and range all the way from ordinary mixtures to specialized treatment, from consultation to hospitalization, from change of doctors to change of climate. The All India Bank Employees' Association has formulated its demand thus:

"Every employee shall be entitled to free medical aid for himself. Such medical aid shall include all expenses of medical or surgical facilities, supply or procurement of medicines, vaccines, sera or other therapeutic substances, accommodation in hospital, travelling expenses, either by the patient or the authorised doctor, etc. etc. The doctor shall be a registered medical practitioner or a specialist if need be. The nature and seriousness of the ailment shall be the deciding factor in determining the nature of medical aid to be rendered irrespective of the status or the position of an employee."

439. The Imperial Bank of India Staff Associations have asked for the following:—

- “(a) All medical and surgical including dental and ophthalmic expenses which will be incurred by a member of the staff on account of himself and members of his family, as fees to doctors, cost of medicines, charges for examining blood, taking X-Ray plates, tonics and recuperative medicines etc. should be borne by the bank.
- (b) If an employee is advised change of climate the bank should pay travelling expenses incurred by him and his family.
- (c) The selection of a doctor should rest with the employees concerned.”

440. Medical aid has been an issue before several Tribunals and has found an important place in several awards for banks and their employees. Shri B. B. Singh recommended free medical consultation for all employees of ‘A’ and ‘B’ classes of banks without any restriction to any branch of such banks. For big centres he made the additional recommendation as regards ‘A’ class banks that they should have a system of part-time medical practitioner attending at fixed hours at a fixed place for free consultation by the employees of the banks.

441. Justice Divatia in the Bombay banks award dealt with the workmen’s demand that free medical treatment including injections and patent medicines should be given to employees and their families. The demand was opposed by all the big banks although several of them had their own doctors who could be consulted by the members of the staff without payment and some of them even maintained a dispensary of their own. The learned Adjudicator directed; “All the big banks should have a medical officer who can be consulted free of charge by all the employees. It would be voluntary on the part of banks to supply medicines free of charge. This, of course, will be limited to employees and would not apply to the other members of the families. In the case of small banks I do not think, they should be compelled to engage a doctor for consultation by the employees free of charge.”*

442. Mr. R. Gupta in his award in the dispute between the Imperial Bank of India (Bengal Circle) and its employees reviewed the medical facilities available in Calcutta, Lahore and Cawnpore. In each place he observes a doctor attends at the office where there is a small dispensary and the bank staff can appear before him for treatment. He examines and prescribes. The bank does not pay for medicines other than the simple drugs that the dispensary keeps. Mr. Gupta did not concede the demand for free supply of medicines. Neither did he approve of the suggestion that the families of the bank employees should receive free treatment and medicines. He directed that wherever the staff was large enough as in Calcutta the bank have its own Medical Officer or officers who would visit the branches once every day and also visit sick employees at their houses wherever necessary. In the mofussil branches he asked the bank to arrange for free medical treatment through the Civil Surgeon and where he was not available through a private practitioner of local repute.†

443. In the course of his arguments Mr. Chari made the following submissions:—

The demand for medical aid is confined to employees and not to their families. There would be no demand for medical aid if living wage is given. The Sen Award carried the principle of classification to extremes by providing for different maxima for different salary scales as if the expense depended upon the range of salary and not on the nature of illness. Medical aid should be uniform and there should be no differentiation as between one grade of employee and another. There should be no pre-payment of bills in cases where the doctor appointed by the bank i.e. the authorised doctor treats the employees. Identity cards also should not be insisted in such cases. There must be a time limit for payment of bills by banks where other doctors treat the employees. The doctor engaged by the bank should be changed if a majority of the employees pass a resolution demanding the same. Eye treatment, supply of spectacles and dentures should also be provided by the bank. Mr. Phadke stated that banks should pay for medical treatment even if employees are to get a living wage. He wanted hospitalization and travelling expenses in cases where change of climate was advised. He did not press the

*Divatia Award on Banking Companies and their Workmen in Bombay City, para. 44.

†The Gupta Award—Imperial Bank of India Bengal Circle—Section Medical Aid and Expenses.

demand for medical facilities for the families of the employees. But he asked for eye treatment, dentures, X-Ray etc. Mr. Dudhia said that where a maximum is fixed there should be no necessity to go to an authorised doctor and that medical expenses should be given even for illness during leave period. He also submitted that the award should be given with retrospective effect any rate from the date of invalidation of the Sen Award.

444. Mr. Vimadalal for the Central Bank of India Limited submitted that medical aid was only an amenity to be given and was not claimable as of demand or as of right. What was demanded was really a scheme of insurance for which there was no justification as there were no occupational hazards or risks in banking industry. Where the employee got himself treated by a different doctor the banks' doctor must certify that the bill was for a reasonable amount. Demand for change of doctor at the instance of employees should not be conceded. While there was no objection for relief during period of leave claims for change of air or climate should not be recognized. Even if the demand for medical expense was conceded, there should be a ceiling placed upon it. He opposed the demand for retrospective effect. He gave the figures for the Central Bank (exclusive of doctor's retaining fee) and they were as follows:—

† In 1949 Rs. 20,000, in 1950 Rs. 23,000.

In 1951 Rs. 33,000 and in 1952 (first half) Rs. 15,500.

445. Mr. Seervai for the Bank of India Limited while supporting Mr. Vimadalal submitted that in his bank the facilities for the officers and the employees were the same and that the bank gave grants-in-aid in deserving cases. Mr. Palkhivala appearing for the Exchange Banks stated that the existing amenities were sufficient and that they were more or less the same as in the leading Indian Banks. Mr. Lawrie for the Imperial Bank of India stated that the rules of the bank did not make any distinction between officers and other employees, that there was provision only for medical attendance which did not include hospital fees, nursing home or specialist's fees and that medical facilities should be available only when the employees are on active duty. He also gave the figures for the Imperial Bank of India which are as follows:—

From 1st January, 1949 to 31st December, 1949	...	Rs. 20,000
From 12th August, 1950 to 30th September, 1951	...	Rs. 1,33,862
From 1st October, 1951 to 30th September, 1952	...	Rs. 1,13,759

446. Mr. Tanubhai Desai appearing for the United Commercial Bank Limited submitted that facilities for medical aid were abused by the employees during the period the Sen Award was in force. His suggestions in respect of the demand were (1) employees and employers should contribute equally, (2) provision must be made only for ordinary illness and vague claims for improvement of general conditions should not be allowed, (3) maximum amount should be fixed at Rs. 50, and (4) employees should not be eligible for dentures or eye or similar treatment. He also said that there should be no provision for compelling the presence of the doctor in the bank's premises as that would not at all be possible. On behalf of the United Bank his contention was that the capacity of the bank being limited this burden should not be imposed.

447. Mr. Tilak appearing for small banks cited Justice Divatia's Award and claimed exemption for the small banks. He suggested that the small banks should not be called upon to pay, at least in those places where Government hospitals were available. He also cited Shri A.D. Shroff's Minute of Dissent to the Report on the Committee on Fair Wages wherein he held that medical assistance and education should be the responsibility of the State. Mr. Asayekar appearing for small banks supported Mr. Tilak, but had no objection to the banks paying any charges which the Government hospitals might require.

448. Mr. Phadke in the course of his reply argued that there should be no ceiling at all. But if a limit was to be fixed his suggestions were—

- (1) A ceiling for the banks defining the total payment for the year should be fixed, the total payment being a certain percentage of the wage bill or at a minimum rate calculated on the total strength of the clerical and subordinate staff.
- (2) A provisional limit should be fixed for each employee and at the end of the year any balance of his bills that remained unpaid must be made good to the employee to a proportionate extent where there is surplus in the total fund of the bank ear-marked for the purpose.

- (3) If the ceiling was fixed at a fairly high figure, contributory arrangement in the ratio of 1/3 and 2/3 might be adopted thereafter.

449. In the course of the discussion there was some reference by the workmen to the facilities provided by the Government. There is no doubt that the Government rules are quite liberally conceived. The analogy of Government servants who obtain medical facilities for their families does not hold good because Government have at their disposal medical services, dispensaries and hospitals and they can provide medical aid without much extra cost. What is worthwhile from our point of view is to enquire how far provision is made for medical treatment in other industrial or commercial concerns. The following statement shows the extent of medical aid available in certain concerns of importance in Bombay:—

Serial No.	Name of Institution.	Medical facilities provided.
1.	General Motors (India) Ltd.	Employees are given medical aid in the company's equipped dispensary. In addition, they are given treatment available at Out Patient Departments of any big hospital.
2.	Mackinnon Mackenzie & Co. Ltd.	Free medical treatment to employees by the company's two doctors.
3.	Bombay port Trust.	Employees drawing up to Rs. 300 per month are allowed consultation and ordinary medicines free of charges at Port Trust dispensaries. For others consultation is free but medicines have to be paid for.
4.	Bombay Electric Supply and Tramway undertaking	Free medical aid, medicines, certain injections and facilities for a thorough medical examination are given in the dispensaries provided. In addition to a number of doctors a Consulting Medical Officer is available at fixed hours.
5.	New India Assurance Co. Ltd.	Free medical aid given to peons and subordinate staff.
6.	Imperial Chemical Industries (India), Ltd.	Free medical aid is provided to all employees in an equipped dispensary. A doctor is available for consultation at specified timings. In deserving cases of lower paid staff, <i>ex-gratia</i> payments are made for purchases of tonics, injections etc. The company has also sponsored a Relief Association Scheme for the benefit of the staff members which they can join by paying a nominal fee according to their salaries.
7.	Associated Cement Companies, Ltd.	There is an arrangement with a well-known physician of Bombay to whom they pay an honorarium, who in return sends one of his Assistant Medical Officers to their office for one hour every day to examine give injections to or prescribe medicine for such of the employees who seek his advice or treatment. Employees have also the option to go to the Chief Physician himself to consult him in his rooms. No charges whatsoever is recovered from the employees for these medical or injections. As regards serious illness of employees, the Directors, in exercise of their discretion, sanction such financial assistance towards meeting the cost of the medical expenses incurred by employees as appears appropriate, having regard to all the facts and merits of each individual case.

450. We are satisfied that the health of the family is primarily a charge on the pay and emoluments of an employee and not on the bank. The bank however is directly interested in maintaining a healthy work force; for a healthy workman is also an efficient workman other things being equal. That the banks themselves have realized this is evident from the commendable practice obtaining in some of the major banks where without the obligation imposed by an award ample medical facilities have been provided for individual employees. It must at the same time be realised that the facilities provided by the banks can only be limited in the nature of things. After deeply considering the various arguments placed before us and the analogy provided by medical facilities available in other commercial concerns in Bombay we give the following directions :—

- (1) Medical facilities should be availed of only by the workman. Members of his family are not entitled to the same.
- (2) Wherever existing facilities in any bank or banks are superior to the provisions hereinafter made, such facilities should be continued.
- (3) Wherever possible, banks should appoint or nominate a wholetime or part-time medical practitioner (hereinafter called 'authorised doctor') who shall be available for consultation and for treatment at stated hours either in his dispensary or in the premises made available to him by the bank.
- (4) An employee claiming the benefit of these facilities shall go to an authorised doctor or such other doctor as he may recommend in writing, provided that where there is no such authorised doctor appointed by the bank for any place, the employee can choose any registered medical practitioner practising in the locality or nearby.
- (5) Except where an authorised doctor treats the workman, all medical bills shall, in the first instance, be paid by the workman. He can thereafter recover whatever amounts are permissible from the bank. Bills of authorised doctor shall be paid by the bank itself.
- (6) Banks are at liberty to have the bills for treatment submitted by other medical practitioners where authorised doctors are not available for scrutiny and approval by the banks' doctors and only the amounts so recommended by them need be paid.
- (7) Every workman shall during illness (whether he is on duty or on leave) be entitled, free of charge and up to the limits in Clause 10 *infra*, to attendance and treatment by the bank's authorised doctor or where there is no such doctor, by a registered medical practitioner of his choice as stated above.
- (8) Expenses properly incurred by the workman shall be paid by the bank within six weeks of the production of bills and certificates by him.
- (9) All bills submitted for payment shall be accompanied by a certificate from the doctor concerned for the treatment.
- (10) The total expenses from January to December of each calendar year on account of medical attendance and treatment payable by a bank to a workman shall not exceed the following limits:—

Class of Banks

Class of Areas.

	I	II	III
	Rs.	Rs.	Rs.
A	90	60	50
B	75	50	40
C	60	40	30
D	30	20	15

We are not defining the extent and nature of medical treatment in view of the monetary limits fixed by us. Such facilities however need not include supply of dentures, spectacles, hearing and other aids.

451. Payments on this basis shall be made for all bills submitted from 1st January 1953 onwards, credit however being taken for any payments already made to any workman under our interim orders. In respect of other bills presented for payment before 1st January 1953 the directions contained in our interim order will

apply. There shall however be no liability to make any refund to the bank in respect of payments already given to a workman.

452. As we have not before us full details as regards the financial implications of the provision for medical relief, we have been obliged to take only a cautious step forward. However, after experience of the working of the scheme for three years an upward revision of the extent of relief may be possible. In that connection a ceiling for the total expenditure under this head calculated at an appropriate figure for each workman may perhaps be fixed, and subject thereto, the limits which we have prescribed for each individual may be enhanced appropriately.

CHAPTER XXIII

Item No. 17: Insurance against old age etc.

453. Item 17 in the reference is "Insurance against old age, sickness, death or injury from accident in the course of the discharge of duties".

454. The demand under this head is that all the employees shall be insured at bank's cost against old age, sickness, death or injury from accident in the discharge of duties. The All India Bank Employees' Association however concedes that the premia should be borne equally by the employee and the employer. The banks resist the demand. They contend that the ordinary and usual duties of the workmen in the bank do not expose them to any accidents or hazards as would be the case in a mill, mine or factory. In the case of the Imperial Bank of India the pension and provident fund covers retirement and the rules permit of a member utilizing his contribution to effect an insurance on his life. The bank avers that no justification exists for any further benefit.

455. In the arguments before us the Counsel for workmen laid stress only on compensation for injury caused by accidents in the course of employment and not on 'insurance' as such in the sense of a policy covering risks. We have not been also able to appreciate the demand that the bank which under our award is required to make provision for at least two retirement benefits viz. provident fund and gratuity (or pension) should be burdened with the cost of insuring its workmen against old age, sickness, death and so forth. Payment of insurance premia will be one more expense item on the banks which at the present stage of the industry we are not prepared to recommend. It is for the workmen to realize the value of insurance cover and put by small sums from their current income, such as it is, against the rainy day. But we recommend that the banks should allow the workmen to utilize their contributions to the provident fund towards the payment of premia on life assurance policies taken by them.

456. As regards the demand for compensation for injury the following submissions were made on behalf of workmen: Bank robberies which are by no means rare expose the employees to grave risks of loss of life and limb. Bank moneys in transit specially involve real hazards to those in charge. Moreover, the salaries or wages of the employees are too low to admit of any savings for old age or against accidents or sickness. The provident fund and gratuity payments when they fall due are too inadequate a provision. Though the provisions of the Workmen's Compensation Act do not apply to bank workmen owing to the definition of "workmen" in Section 2(n) of the said Act, similar benefits should be made available to the bank workmen by our award on the lines laid down by the Sen Tribunal. The learned Counsel for the banks argued that the demand of the workmen was confined only to insurance by third persons, premia being paid by workmen and employers and that the question of compensation by banks was outside the jurisdiction of the Tribunal. Issuing directions for compensation on the lines of the Sen Tribunal would amount to a kind of private legislation extending the Workmen's Compensation Act to bank workmen. The Tribunal should not assume such legislative functions.

457. Relief by way of compensation by employers to employees or their heirs for injury or death from accident arising out of and in the course of their employment is, in our opinion, one form of "insurance" cover in a larger sense of the term. We cannot, therefore, refuse to consider this aspect of the matter. This is within our jurisdiction, as the demand is substantially one for appropriate relief in cases of accident, though one particular method is mentioned. We are satisfied that the banks should not hesitate to grant relief when there are definite insurable risks. Persons who accompany cash in transit or persons who work in the cash department run the risk of being injured, if not worse by robbers and dacoits. Such crimes though very rare until very recently are now assuming some proportions. The banks themselves have not failed to recognize their moral obligations in such circumstances and have been giving suitable relief in a sympathetic manner. The question however is whether we can make this a legal obligation, and if so to what extent and subject to what safeguards.

458. The only concrete suggestion before us was that payment of compensation should be made obligatory on all banks under like circumstances as are laid down by the legislature in the Workman's Compensation Act. Higher scales of compensation than what are provided in the Act were however asked for in view of the lower purchasing power of the rupee at the present day and also because the clerical staff should get more than what subordinate staff get. Reliance was placed upon the Sen Award which practically extended the benefit of compensation as per scales fixed by the Act to several bank workmen including those whose salaries were above the salary limit of Rs. 400 fixed by the Act. We are not however able to bring ourselves to agree with this view. The Act provides a well-considered scheme of compensation with several safeguards and also an appropriate machinery for deciding the amount and for distribution amongst the workman and certain of his dependents. Our award cannot possibly take in all the safeguards including the services of a Commissioner and an appeal to the High Court in matters relating to amount of compensation. It will not be right to adopt one section of the Act without the necessary safeguards where the benefits that are being given are substantially of a monetary character. The proper method will be to apply to the Government to have the Act extended with such modifications as may be necessary so as to apply to certain categories of bank employees, as well. A well-considered scheme in its totality is not before us. We hesitate therefore to concur with the view of the Sen Tribunal. With great respect we differ from them. We regret that we cannot now lay down any compulsory directions in the matter, though we feel that some attempt in that direction should be made. For the present we can only recommend that all banks should provide adequate compensation in such cases.

CHAPTER XXIV.

Item No. 18: Leave rules.

459. Item 18 is as follows:—

"Leave rules".

460. Leave and holidays with pay has been a long established practice in banks. The terms of leave may not have been generous but the practice of holidays with pay has prevailed even in small banks. Factory workers as a class in India and elsewhere were not so well favoured. The International Labour Organization adopted in the year 1936 a convention called the "Holidays with Pay Convention" for prescribing an international standard of leave conditions applicable to industrial and commercial establishments. The adoption of the convention by various countries has given a fresh impetus to the movement. In almost all countries provision at present exists in the form of laws, awards and collective agreements which entitle workmen to annual leave with pay. In India provisions relating to leave and holidays are incorporated in Factory Acts and in different Shops and Establishments Acts. In fact next to wages and dearness allowance the question of leave with pay has figured prominently in most of the disputes submitted to labour judiciaries.*

461. Banks have supplied us with copies of their leave rules. There is a vast amount of diversity in these rules. We have made a close study of these rules and come to the conclusion that the rules we frame should be simple and generally, applicable to all workmen, clerical as well as subordinate.

462. The demands relate to casual leave, ordinary or privilege leave, sick or medical leave, special leave and miscellaneous kinds of leave such as quarantine leave, maternity leave and leave preparatory to retirement.

463. As to casual leave the demand varies from 15 days to 20 days in a year with the conditions that no prior approval should be required, no medical certificate should be asked for and the maximum period for which it may be granted at a time should be eight days with a right to prefix or suffix holidays. Under privilege or ordinary leave some unions have asked for one month for each eleven months of service and others for one month for every year of service. It should be cumulative up to six months for all grades of employees; it should be given with full pay, allowances and bonus; it should be granted independently of the needs of administration. Cashing the balance of unavailed leave is urged by some unions. As to sick leave the demand is for one month in every year subject to the maximum of 24 months during the whole period of service with pay, bonus and allowances. Sick leave should not be deducted from privilege leave. Some unions have asked for sick leave on half-pay for any period of illness over the said month until complete recovery. Another item of demand is special leave

* "Industrial Awards in India", published by the Ministry of Labour, Government of India, pp. 43 and 178.

amounting to 2 weeks or even 3 weeks in a year to be granted to office bearers or to members entrusted with union work. There is also a demand for six months' leave preparatory to retirement for all employees on pay and allowances. Quarantine leave, maternity leave, and examination leave make up the rest of the demand. Finally the unions have urged for 'leave fare concessions' for employees proceeding on ordinary leave or sick leave, at the rate of one return fare for the employee and for each member of his family.

464. The banks in general have resisted the demands which in their opinion are on too liberal a scale. They contrast the few holidays in England with the many holidays in India. Their attitude was to scale down the leave under each of the major heads and to deny it altogether in respect of quarantine leave, examination leave and special leave. They have also strongly pleaded that leave rules should be strictly drawn up and strictly enforced. As regards privilege leave they think that there should be no accumulation beyond three months for the clerical staff and two months for the subordinate staff and that the period of leave to be granted at any one time should depend on the exigencies of the bank. For sick leave their submissions are that sick leave may only be granted on a certificate by a registered medical practitioner acceptable to the bank and that if privilege leave is available no sick leave need be given. The banks do not look with favour upon the grant of casual leave. They say it is detrimental to the efficient running of a bank. If casual leave is permitted at all it should be for emergent purposes and wherever possible must be applied for and sanctioned in advance. In no case should absence without permission be debited to casual leave. The banks oppose leave preparatory to retirement as in their opinion the retirement benefits they enjoy are more than adequate. They oppose also special leave on the ground that union work must not be carried out by employees at the expense of their duties in the bank. Leave fare concessions are objected to because the emoluments paid to employees are sufficient to cover the expenses while proceeding on long leave.

465. Shri B. B. Singh recommended the following scale of leave in his award for banks in the United Provinces:—

1. *Casual leave.*

14 days in a year on full pay and allowances for clerks.

15 days in a year with full pay and allowances for menials.

2. *Privilege leave.*

30 days in a year on full pay and allowances with right of accumulation up to a maximum of 3 months in three years for clerks.

6 weeks in two years with right of accumulation up to 12 weeks in four years on full pay and allowances for menials.

3. *Sick leave.*

30 days in a year on half-pay on the production of a suitable medical certificate for clerks.

30 days in a year on half pay on the production of a suitable medical certificate for menials.

Mr. Singh directed that all privilege leave should become due after 12 months' completed service.

466. Divatia J. in the Bombay Award laid down the following leave rules:—

Big Banks: One month's privilege leave in a year with full pay and allowances which could be accumulated up to 3 months in the case of the clerical staff and 2 months in the case of the subordinate staff; ten days' casual leave in a year with full pay and allowances, out of which not more than 4 days could be taken at one time, provided that absence should not exceed 6 days of casual leave combined with gazetted holidays; sick leave on half-pay for one month for each year's service on a certificate from a registered medical practitioner, subject to a maximum of 12 months in all during the whole service, additional leave being allowable at the bank's discretion, provided that such leave was dependent on privilege leave not being available and that in special case of hardship full pay might be granted for six months during the whole service; leave without pay in cases where no other leave was due, at the discretion of the bank.

Small Banks: Three weeks privilege leave in a year which could be accumulated up to 9 weeks for the clerical staff and 6 weeks for the subordinate staff; sick leave on half-pay for 3 weeks in a year, subject to a total period of 9 months during the whole service such leave being allowable on full pay in cases of special hardship for half the said period; other leave on the same scale as applicable to the big banks.

In the case of female employees in all banks maternity leave for 3 months with full pay was allowed in addition to sick leave.

467. Mr. R. Gupta in the case of the Imperial Bank of India, Bengal Circle gave directions similar to those of the Divatia Award regarding big banks.

468. There are two important considerations in the framing of leave rules, namely, the need for rest and recuperation on the part of the workman and the capacity to bear the burden of paying salary and allowances during leave periods on the part of the employers. The need of the workman is to be estimated in terms of his (1) age and length of service and (2) the nature of his work. If pay and allowances of employees are regulated with due regard to the amount of responsibilities, conditions of work, the kind of occupation, years of service and so on then there is nothing unreasonable in regulating their leave on the same considerations. The Central Pay Commission in paragraphs 142 to 152 have dealt with the general principles that should govern the grant of leave in general and leave under particular heads like privilege leave and casual leave.* We have tried to apply these principles with some modifications to the banking industry in so far as they are relevant.

469. While granting that periods of rest and recuperation are necessary for the workmen, the banks contend that leave of all kinds should be confined within reasonable limits. Leave entails cost to the bank. It becomes an item in establishment charges. The workman on leave draws his pay and allowances in part or full; very often a substitute has to be appointed and his services have to be paid for and in so far as the substitute is a new recruit the bank has to reckon the cost of inefficiency born of his inexperience. Thus we have to balance two considerations, namely, the duration of leave and the cost of leave.

470. It has been argued before us that there should be no distinction between the leave admissible to clerical staff and that admissible to subordinate staff and that all workmen should be treated equally in the matter of leave. It was particularly stressed that in view of their duties, which are physically more exacting, subordinate staff should not be treated less favourably than clerical staff. We agree with this view and in the directions which follow we have not made any distinction between these two categories of workmen.

471. Before we proceed to frame a set of leave rules for the banking industry under reference before us we shall dispose of those demands which appear to us to be high-pitched. A new species of leave called "special leave" has been demanded for office bearers of unions and associations to carry out their trade union functions, duties and activities. Some of them have to attend proceedings of labour courts and tribunals and take part in the conference of trade unions. The banks have tried to repel the demand on the ground that these activities cannot be carried on at the expense of their duties. We are of opinion that no case has been made out for "special leave". Legitimate trade union activity should be conducted out of office hours and without detriment to the interests of the bank. As regards leave for attending labour courts or tribunals, it is unnecessary to give any direction as ordinarily the court or tribunal would be in a position to give appropriate directions in respect of this demand as and when necessary.

472. Special leave up to one month in a year has also been demanded for employees who appear for examinations conducted by the Universities and the various Institutes of Bankers. A claim has also been made that bank employees who are members of the Territorial Force should be given special leave for periods of duty rendered with the Force. We cannot grant these, as part of the leave rules which we are laying down but we have no doubt that the banks will sympathetically deal with individual cases on their special merits.

473. Another demand has been made that the directions of this Tribunal should have retrospective effect from the date of confirmation. We consider this demand unreasonable and reject it.

474. The demand for leave fare concessions was pressed on the ground that workmen ordinarily are unable to utilize the leave at their credit for the improvement of their health and efficiency because they cannot afford to pay their fares to places where they wish to spend their leave. The recommendation of the Central Pay Commission to the effect that to make leave really profitable the officials should be given fare concessions was referred to. The regulations of the Reserve Bank of India also provide for this. Still we do not accede to this, as we think that this extra burden should not be cast on the banks at the present stage of the industry. The employees are generally recruited from and work in their home towns or at places not very far off. The demand has not found favour in any adjudication known to us.

475. We also reject the demand for "six months' leave with full pay and allowances preparatory to retirement". The provision for leave that we have set forth

below will cover all the just and reasonable needs of the workmen. The workmen can in such cases utilize the ordinary leave accumulated by him up to three months. If however the banks are not able to grant such leave owing to exigencies of bank work, the workman should be paid on retirement the pay and allowances for such period for which leave was withheld.

476. The question of leave reserve was mooted before us. It was pointed out that in certain Government departments such as Posts and Telegraphs, Railway Mail Service etc. a certain percentage of the staff, say 10 to 20 per cent., are maintained as leave reserves.* The Central Pay Commission have suggested the creation of a leave reserve after taking care that the leave periods of the officials are so distributed or adjusted that the need for spare hands is reduced to a minimum.† So far as banks are concerned, it is a matter entirely for their administrations. It may be to the interest of the big banks to build up such reserves, but the object in view would be attained to a large extent by the provisions made by us for maintenance of registers of qualified candidates. Beyond this, we give no directions as to the maintenance of a leave reserve.

477. A demand has been made that employees should be permitted to convert their ordinary leave not availed of into cash payment in lieu thereof. As ordinary leave is intended for rest and recuperation we reject this demand.

478. On a due consideration of the demands before us, of the rules now in operation in banks, of the directions in existing awards and of the Model Standing Orders for the banking industry published by the Government of Bombay in October, 1948, we give the following directions under leave rules:—

- (1) An employee who desires to obtain leave of absence, other than casual leave, shall apply in writing to the Manager or any other officer appointed for the purpose. Such application for leave shall be made not less than one month before the date from which the leave is to commence, except in urgent cases or unforeseen circumstances including illness when it is not possible to do so. The Manager or the officer empowered by him in this behalf shall issue orders on such application as soon as practicable, and in cases of an urgent nature immediately. If the leave asked for is granted, an order showing the date of commencement of the leave and the date on which the employee will have to resume duty shall be issued to the employee.
- (2) If an employee after proceeding on leave desires an extension thereof, he shall make an application in writing to the Manager or other officer appointed for the purpose. Such application shall state the full postal and telegraphic address of the employee and shall be made in sufficient time to enable the management to consider the application and send a reply to him before the expiry of the leave desired to be extended. A written reply either of the grant or refusal of extension shall be sent to the employee at the address given by him if such reply is likely to reach him before the expiry of the leave originally granted to him.
- (3) If leave is refused or postponed, the reason for the refusal or postponement, as the case may be, shall be mentioned in the order, and a copy of the order given to the applicant.
- (4) No leave or extension of leave shall be deemed to have been granted, unless an order to that effect is passed and communicated to the employee concerned.
- (5) Leave of all kinds cannot be claimed as of right. When the exigencies of the service so require, discretion to refuse or revoke leave of any description is reserved to the authority granting it, and an employee already on leave may be recalled by that authority when it considers this necessary in the interests of the service.
- (6) Gazetted holidays (that is Bank holidays under the Negotiable Instruments Act) other than Sundays shall not be prefixed or affixed to any leave without the sanction of the competent authority having been first obtained. An employee who overstays his leave (except under circumstances beyond his control for which he must tender a

* Rule 249 in the Post and Telegraph Manual, 1941, Vol. IV Rajadhyaksha J's Award; Indian Government Railway Administration and the Workmen, paras. 404 to 428.

† Report of the Central Pay Commission, para. 149.

satisfactory explanation) shall not be paid his pay and allowances (other than house rent allowance based on pay i.e. basic pay, officiating and special allowances, if any, last drawn for the period he over-stays and shall further render himself liable to such disciplinary action as the management may think fit to impose.

- (7) Leave earned by an employee lapses on the date on which he ceases to be in service. Where an employee's services are terminated owing to retrenchment he shall be paid his pay and allowances for the period of privilege leave at his credit.
- (8) Unless he is permitted to do so by the authority which granted his leave, an employee on leave may not return to duty more than fourteen days before the expiry of the period of leave granted to him.
- (9) The first day of an employee's leave is the working day succeeding that upon which he makes over charge. The last day of an employee's leave is the working day preceding that upon which he reports his return to duty.
- (10) An employee shall, before proceeding on leave, intimate to the competent authority his address while on leave, and shall keep the said authority informed of any change in the address previously furnished.
- (11) An employee on leave shall, unless otherwise instructed to the contrary, return for duty to the place at which he was last stationed.
- (12) The competent authority may require an employee who has availed himself of leave for reasons of health to produce a medical certificate of fitness before he resumes duty even though such leave was not actually granted on a medical certificate.
- (13) Leave may not be granted to an employee under suspension or against whom proceedings are pending.
- (14) Employees on privilege, sick, maternity or quarantine leave shall be entitled to allowances.

Privilege Leave

479. The amount of privilege leave earned shall be one month for each completed year of service in a year for banks in Classes 'A' and 'B' and $\frac{3}{4}$ of a month for each completed year of service in the case of banks in Classes 'C' and 'D'. Privilege leave will be cumulative up to a maximum of three months.

480. If leave applied for by a workman has been refused, such workman will be entitled to accumulate leave in excess of the maximum of three months prescribed up to the date from which leave has been applied for or the date on which the bank is in a position to grant him leave, whichever is earlier.

481. The privilege leave due to an employee is the period which he has earned diminished by the period of leave actually taken.

Leave salary

482. An employee on privilege leave shall draw a leave pay equal to his average pay i.e. the average monthly pay (earned while on duty) during the twelve calendar months immediately preceding that in which the employee proceeds on leave. Pay means the aggregate of basic pay, dearness allowance, officiating allowance and special allowance, if any.

Casual, Quarantine, Sick, Extraordinary and Maternity Leave

483. *Casual leave.*—An employee shall be entitled to casual leave up to a maximum of twelve days in each calendar year provided that not more than four days may be taken continuously and provided that gazetted and public holidays and Sundays may not be combined with such leave in such a way as to increase the absence at any one time beyond six days but if extended beyond these limits it shall be treated as privilege leave in respect of the entire period. Casual leave may not be granted in combination with any other leave.

484. Casual leave shall be non-cumulative. Ordinarily the previous permission of the sanctioning authority shall be obtained before taking such leave. When this is not possible the said authority shall as soon as practicable be informed in writing or if writing is not possible orally or through any person of the employee's absence from work, reason thereof and of the probable duration of such absence. A workman on casual leave shall be entitled to pay and allowances as if he was on duty.

485. Casual leave is only intended to meet special or unforeseen circumstances for which provision cannot be made by exact rules. Gazetted and public holidays except Saturdays and Sundays shall not be prefixed or suffixed to casual leave without the previous permission of the officer granting such leave.

486. *Quarantine leave.*—In case an employee is absent from duty on account of quarantine, the bank may, at the request of the employee, treat such absence up to a maximum of three months as privilege or sick leave if such leave is otherwise permissible.

487 *Sick leave.*—During the full period of his service an employee shall be granted sick leave on medical certificate at the rate of one month for each year of service for a period not exceeding twelve months, and the Manager or other officer appointed for the purpose may grant additional sick leave, if considered advisable in the bank's interest, in special cases. The medical certificate should be from one acceptable to the bank.

488. Sick leave shall be on half average pay which shall be reduced to one quarter of average pay after twelve months:

Provided that where an employee has served the bank for at least a period of five years he may, if he so requests, be permitted to avail himself of sick leave on full pay up to a maximum period of six months during the full period of his service, such leave on full pay being entered as twice the amount of leave taken in his sick leave account.

489. *Extraordinary leave.*—Extraordinary leave may be granted to an employee when no ordinary leave is due to him. Except in exceptional circumstances, the duration of extraordinary leave shall not exceed three months on any one occasion and twelve months during the entire period of an employee's service.

A competent authority may grant extraordinary leave in combination with, or in continuation of leave of any other kind admissible to the employee.

No pay and allowances are admissible during the period of extraordinary leave and the period spent on such leave shall not count for increments:

Provided that, in cases where the sanctioning authority is satisfied that the leave was taken on account of illness or for any other cause beyond the employee's control, it may direct that the period of extraordinary leave may count for increments.

490. *Maternity leave.*—Maternity leave which shall be on average pay shall be granted to a female employee of the bank for a period not exceeding three months on any one occasion and twelve months during the entire period of an employee's service.

A competent authority may grant leave of any other kind admissible to the employee in combination with, or in continuation of maternity leave if the request for its grant is supported by sufficient medical certificate.

CHAPTER XXV

Item No. 23: Method of recruitment, conditions of service, termination of employment, disciplinary action, etc.

SECTION I—Method of Recruitment.

491. Item 23 has a large number of items: "Method of recruitment, terms and conditions of service and procedure for termination of employment or for taking other disciplinary action". There are several issues closely associated with these and they have been dealt with by us under appropriate heads.

492. At the outset we would like to point out that Mr. Phadke, the Counsel representing the most of the employees of the Imperial Bank of India and certain Exchange Banks admitted that no award to his knowledge has given directions regarding recruitment. The workmen's demand in this connection may be summarised as follows:—

- (1) Recruitment should be made on the basis of educational qualifications.
- (2) Sons and daughters of employees should be given preference.
- (3) There should be no direct recruitment to the supervisory and officers' grades.

- (4) No probationer should be appointed without pay or on pay at less than the grade pay.
- (5) Period of probation should be limited to three months.
- (6) Banks should have no part-time employees.
- (7) Apprentices should be paid at the rate not lower than the ordinary clerk.
- (8) Godown keepers are to be made permanent after continuous service of one year, or total period of two years if there is a break.

493. We do not think it necessary to lay down conditions regarding the minimum qualifications for recruitment of the staff by banks as the requirements of different banks are not necessarily uniform. Some of the banks, for instance, the Exchange Banks, may perhaps as in the past insist upon a higher standard of general education than other banks. Some banks may be satisfied with even non-matriculate candidates, particularly for small branches or pay-offices provided they know the vernacular of the place of appointment and have good connections to enable them to get business for the bank. Moreover, for certain kinds of work, such as that of a cashier in a bank, it is not necessary to employ only persons who have passed the matriculation or an equivalent examination. We recommend that so far as new hands are concerned preference should be given to persons who are holders of recognized diplomas or degrees in commercial subjects provided that in other respects their qualifications are more or less identical. We also recommend that banks should give first preference to those members of their retrenched staff who are otherwise qualified to fill up vacancies. It is however to be understood that this recommendation does not apply to persons whose services have been dispensed with either as a result of any disciplinary action or unfitness. Candidates who have worked temporarily and whose services have been approved of should be considered after those of the retrenched staff referred to above. The complaint that relatives of directors and highly placed officers of banks are taken up in preference to persons otherwise qualified has not been established before us, and consequently, we do not feel justified to give any direction in this connection. We suggest that banks in their own interests should, in case of a reasonable number of vacancies, advertise them and then make appointments after passing the candidates through such tests as they may consider necessary. The banks should also maintain registers of candidates in which their names, ages, qualifications, previous experience if any, and special merits and recommendations should be entered, and such registers should be revised periodically and kept up-to-date. Such registers should also have the names of retrenched and temporary employees whose work has been found to be satisfactory. We are unable to support the demand that sons and daughters of employees should be given preference as the employment of more than one member of a family in one and the same office is not free from certain risks. We however recommend that where a bank has a large number of offices it may give preference to the sons and daughters of employees and keep them in different offices. We direct that in the case of all permanent vacancies the candidate must produce a satisfactory medical certificate before the appointment is made.

494. As regards the demand that no direct recruitment to supervisory and officers' grades should be made it has been urged on behalf of the banks that such directions would be beyond the jurisdiction of the Tribunal. In this connection our attention was invited to the following extract from paragraph 48 of Justice Divatia's Award: "The demand that the officers' and higher posts should be filled in by promotion from among the senior clerks cannot be granted because this Court has no power to make any Award about the selection of men to the officers' and higher posts and the dispute is confined to clerks and low paid employees". Without going into the legal position we are of opinion that it is neither necessary nor desirable to impose any such restrictions on the banks. Surely when a new bank is started or when it opens new branches it needs staff for different types of duties viz. clerical, supervisory and administrative. It is therefore impossible to run a bank if it is not allowed to recruit directly supervisory and administrative staff. Some of the Indian banks are opening branches outside India and consequently, either as a result of legal requirements of the countries in which such branches are opened or otherwise they may have to engage a certain percentage of the staff for such branches from among the citizens of these countries.

495. As regards the period of probation Mr. Chari suggested two modifications of the directions given in the Sen Award—(1) the period of probation should be only for 3 months which may be extended to 6 months in extreme cases, and (2) the probationers should be given the same salary as permanent employees. In respect of the first, he stated that certain banks such as the Central Bank of India Ltd., Bank of India Ltd., and Bank of Baroda Ltd. generally require probation for 3 months, but in the case of the Imperial Bank of India and the Punjab National Bank Ltd. they require probation for 6 months. This demand was opposed by the

banks on the ground that ordinarily a period of 3 months suggested by the workmen was not sufficient to enable the bank management to decide whether or not the probationer should be confirmed. The Sen Award fixed the period of probation at 6 months, which in certain cases would be extended by 3 months. We respectfully agree with the said direction and direct that ordinarily the period of probation should not exceed 6 months. However, in case of persons whose work is not found to be quite satisfactory during the said period but who are likely to improve and give satisfaction if a further opportunity is given to them, the period may be extended by three months provided due notice in writing is given to them and their consent in writing is obtained before the extension of their period of probation. In all other cases probationers after the expiry of the period of six months should be deemed to have been confirmed, unless their services are dispensed with on or before the expiry of the period of probation. We further direct that on a candidate's appointment as a temporary employee, a probationer or a permanent member of the staff, the bank shall give him a written order specifying the kind of appointment and the pay and allowances to which he would be entitled and that such a written order shall be given on the appointment of a part-time employee also.

496. As regards the demand that no probationer should be engaged without pay or on pay at less than the grade pay Mr. Vimaladai on behalf of the Central Bank of India had no objection to concede the same though Mr. Lawrie appearing for the Imperial Bank of India suggested that the starting salary for a probationer may be Rs. 10 less. We agree with the demand and direct that probationers should be paid the same emoluments as are fixed for confirmed workmen.

497. The workmen in their written statements want the Tribunal to direct that the apprentices should be paid at the rate not lower than the ordinary clerk. However, our attention has been drawn to the fact that some of these apprentices work in banks so as to qualify themselves to appear for the examinations of the Institutes of Bankers. On behalf of the banks it was urged that the banks should be allowed free scope to engage apprentices as part-time or full time, and to pay them either nothing or less than what an ordinary clerk should get, and that the apprenticeship period may go up to two years. According to them the apprentices come to learn and not to do work in the full sense, and unlike the firms of accountants, banks do not charge any premium for training them. We do not feel justified in compelling the banks to pay emoluments to such apprentices. The matter must be left to their discretion. Only there should be no discrimination. But we direct that the period of apprenticeship, except in the case of those who work in banks so as to qualify themselves for the examinations of the Institutes of Bankers, should not exceed twelve months.

498. According to the workmen's demand there should be no provision for the employment of part-time employees. This demand was in the course of arguments modified by Mr. Chari to apply to categories of services for which normally full-time employees are engaged, as it was pointed out to them that by the nature of work some employees such as Bhats and Bhishties who supply water and sweepers need not be whole-time employees. It may also be not necessary for a small branch of a bank to have a full-time stenographer. We direct that for ordinary clerical work no bank should employ part-time workers except for the writing of pass books in banks in which this practice now prevails.

499. With regard to godown keepers the workmen demand that they should be made permanent after continuous service of one year or total service of two years if there is a break. We understand that godown keepers can be classified into two categories: (1) those in charge of godowns maintained by banks generally in large cities for storing goods belonging to several parties to whom advances are made, (2) those who are required to look after one or more godowns belonging generally to one party to whom advances are made ordinarily for short periods against goods stored in the borrower's godowns, such as in the case of godowns of sugar mills, ginning factories, grain merchants etc. In the case of godown keepers coming under the first category we direct that the period of temporary service should not exceed one year, after the expiry of which they should be placed on the permanent list unless the vacancy itself is a temporary one. In the case of persons coming under the second category whose work is of a temporary nature and whose salary and allowances are generally borne by the parties who are owners of the goods in the godowns, we do not think it proper to insist upon their confirmation even after the expiry of any definite period, particularly as we understand that their emoluments and service conditions in actual practice are not generally different from those of the permanent employees. We however recommend that as far as possible such godown keepers whose work is found to be satisfactory and whose services can be utilized to look after other godowns in the same place or a place nearby or in the clerical establishment of the banks should be made permanent after the expiry of one year.

SECTION II.—Terms and conditions of service.

500. Terms and conditions of service cover a wide variety of topics. Some of them like standing orders, leave, hours of work, overtime, medical aid, transfer, travelling allowance, promotions have been dealt with elsewhere by us. We now proceed to consider certain matters which do not fall under one or other of those heads but come more appropriately under "terms and conditions of service". We shall deal with them as follows:—

1. Classification of employees.
2. Search.
3. Temporary stoppage of work.
4. Age of retirement.
5. Maintenance of service books.
6. Redress of grievances.
7. Service certificate.
8. Issue of notices and orders.
9. Procedure for taking disciplinary action
10. Termination of employment.

501. All parties agreed to take the directions of the Sen Tribunal under conditions of service, disciplinary action and termination of employment as the basis of discussion. There was substantial agreement over the acceptance of the body of rules laid down by the Sen Tribunal. There were however some points of acute difference which call for specific directions from us. Barring these our award on the items in Issue No. 23 follows very closely rules and regulations prescribed by the learned Judges of the Sen Tribunal.

502. Mr. Vimadalal stated that the definition of "probationer" as given by the Sen Tribunal needed amendment so as to read thus: "probationer means an employee or person who was employed on probation but who has not been appointed as a permanent workman". But we are inclined to adopt the definition as given by the Sen Tribunal and treat all probationers as provisionally employed. He also suggested that the definition of temporary employee could be kept in tact except that the words "for a limited period" should be omitted. But we find that the definition of the Sen Tribunal is quite acceptable to us.

503. What constitutes misconduct, whether there should be a Court of enquiry to prove guilt and whether there should be two categories of misconduct, major and minor, with punishment nicely adjusted in each case was a much debated issue. The Counsel for banks stated they should not be compelled to go to a Criminal Court and that a departmental inquiry with opportunity for defence would be both quick and inexpensive. They strongly objected to the "far too detailed procedure" laid down in the Sen Award. The Counsel for workmen urged that an inquiry in a Criminal Court would give them adequate protection and an assurance that justice is being done. Mr. Chari said that without criminal proceedings a large number of employees might be prejudicially affected and a domestic tribunal would have an interest in the inquiry and might not be able to reach correct decisions. We do not think that in the present state of tension between the managements and workmen we can dispense with judicial proceedings, especially in cases of alleged embezzlement. As regards the division of misconduct into major and minor categories the workmen insisted on such a division as it would enable the employers to fit the punishment to the wrong while the banks opposed any such division as it would unduly hamper their discretion and create doubt as to how a particular misdeed would have to be classified. We think that there are sound reasons both in justice to workmen and in the smooth working of banks for listing acts of misconduct into major and minor and suggesting two orders of punishment for them. The Counsel for workmen asked that some of the items under minor misconduct [clauses (f) to (i) in sub-paragraph (6) of paragraph 319 in the Sen Award] be deleted as they are rather insignificant and vexatious and they also pleaded that clause (e) sub-paragraph (4) of paragraph 319 defining gross misconduct should be amended to read "lawful and reasonable order" instead of "lawful order". Mr. Seerval said he had no objection to add the word "reasonable".

504. While we agree to the substitution of the words "lawful and reasonable" in the place of "lawful" we cannot agree to the omission of the items covered by clauses (f) to (i) in sub-paragraph (6) of paragraph 319. There was also a demand

by the workmen that the period of probation should be taken into account for gratuity and pension. The banks submitted that while they had no objection to the period of probation being counted for gratuity they opposed its inclusion for pension and provident fund. We cannot see any objection to the period of probation being added to the years of permanent service for purposes of the grant of gratuity or pension though in respect of provident fund we have provided for contribution on both sides only from the date of confirmation. We are aware that the rules of pension funds of the Imperial Bank of India do not permit an employee to join the fund until he attains the age of 21. But we have no doubt that the Imperial Bank of India would remove the age restriction in proper time and allow the period of probation to be added in counting the service for pension.

505. As already stated we have tried to follow the regulations prescribed by the Sen Tribunal with modifications. We are very particular that a verdict of acquittal passed by a competent court of law should not be lightly thrown aside by the bank management in trying to institute departmental enquiries after the acquittal, as it would amount to a double trial in respect of the same offence. We have occasionally come across instances where a bank management has persisted in its application under Section 33 in spite of an acquittal by an ordinary court of the land after a full trial. The decisions of our courts are entitled to the highest respect and the bank managements should reinstate an employee who is honourably acquitted and pay him his full salary and allowances. The acquittal should not be lightly challenged by departmental enquiries for disciplinary action unless the bank management feels that there has been such a gross violation of the departmental rules as to necessitate a further enquiry in the interests of the institution on matters other than those in respect of which he has been already acquitted. If after the departmental enquiry the management still feels that the employee cannot continue in its service it can terminate his services only on payment of three months' salary and allowances in lieu of notice.

506. The banks complained against the provisions made by the Sen Tribunal regarding notice in respect of termination of service and retrenchment. But we prefer to adopt them as they are quite reasonable, except that we do not consider that 45 days' notice is necessary where the services of a probationer are terminated. We are in agreement with Mr. Vimadalal that at the stage of the enquiry before a domestic tribunal the presence of a lawyer is not necessary unless the bank permits it. We also deal with Mr. Tilak's suggestion that departmental enquiries should proceed even in cases of prosecution and lay down limits for the same.

507. In the course of the hearing there was much argument on both sides regarding the principles to be observed in the retrenchment of workers who have been declared superfluous. The Counsel for the workmen pointed out that under the guise of retrenchment employees active in the trade union movement were victimized and quite often they would be transferred to a place where they would become superfluous and thus liable to be retrenched. They put much faith in the principle of "last to come and first to go", a principle which had been enunciated in several awards. The Counsel for the banks argued that seniority or length of service should be an overriding consideration but insisted that efficiency should also be an important factor in the selection of the employees to be retrenched. Mr. Seerval and Mr. Vimadalal wanted 'seniority-cum-efficiency' to be incorporated in the rules for retrenchment. In recent decisions, it was pointed out, emphasis was laid on length of service as well as on the competence of the workman.* We have considered both points of view. We direct as follows:—

- (1) Retrenchment of superfluous workmen should be on the principle of "last to come and first to go" subject to the qualification that the junior-most also happens to be the least efficient.
- (2) In deciding who is the junior-most among the superfluous, A and B class banks should take the town as the unit while C and D class banks should take the State as the unit.
- (3) To avoid all suspicion of victimization no employee who has been transferred and working in the new place for less than six months may be retrenched.

508. Classification of employees.—We direct that employees shall be classified as:—

- (a) permanent employees;
- (b) probationers;
- (c) temporary employees; and
- (d) part-time employees;

*1952 (2) L.L.J., 611.

1952 (1) L.L.J., 393.

these expressions having the following meanings:

- (a) "permanent employee" means an employee who has been appointed as such by the bank,
- (b) "probationer" means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service,
- (c) "temporary employee" means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature,
- (d) "part-time employee" means an employee who does not or is not required to work for the full period for which an employee is ordinarily required to work and who is paid on the basis that he is or may be engaged in doing work elsewhere.

509. Special mention should be made in this connection of the employees in cash sections where the "treasurer's system" prevails in some branches and in some banks. Such employees also are undoubtedly employees of the bank. This has been decided by the Supreme Court in a recent judgment [see 1952 (2) L.L.J., 577]. All the provisions of our award will be equally applicable to them.

510. **Search.**—We direct that an officer appointed for the purpose by the manager shall have the power to search or cause to be searched an employee when the latter leaves the premises of a bank, provided that the person of a female employee shall not be searched by or in the presence of a male, and that every search shall be conducted in the presence of not less than two persons.

511. **Temporary stoppage of work.**—We give the following directions:—

- (1) In the event of a fire, catastrophe, an epidemic, civil commotion or other cause beyond the control of the bank, it may at any time, without notice or compensation in lieu of notice, close down, as the event may require, the bank or any branch, department or part thereof for a reasonable period.
- (2) An employee affected by a stoppage under clause (1) above shall be deemed to be on privilege leave to the extent such leave is admissible; and for the balance of the period, except where his services, are dispensed with he shall be deemed to be on leave without pay.

512. **Effect on confirmation or permanent appointment.**—We direct that on confirmation or permanent appointment an employee shall be entitled to all the privileges enjoyed by, and shall be subject to all the liabilities cast upon, the other permanent members of the staff and that he should further be entitled to have the period of his probation added to the years of his permanent service for the purpose of the grant to him of any gratuity. We make a similar recommendation in respect of pension also.

513. **Age of retirement.**—The All India Bank Employees' Association in their demand No. 22(c) require that all employees should be compulsorily retired on the completion of 30 years of service or 55 years of age whichever is earlier, whereas the Imperial Bank Staff Associations suggest that no workman should be retired unless he completes 58 years of age.

514. In the course of his submissions Mr. Chari on behalf of the workmen stated that every man does not keep his faculties unimpaired after the age of 55, and therefore suggested that we should adopt the recommendations of the Sen Tribunal with the following two modifications: (a) voluntary retirement on completion of 25 years service or 50 years age whichever is earlier, and (b) existing employees should not be compulsorily retired within 5 years from the date of the award unless they complete 60 years. On behalf of the banks it was stated that whereas the normal age of retirement should be 55 years the banks should have power to extend it in suitable cases, as for example, in the case of Government employees extensions after the attainment of 55 years of age are sometimes given for two or more years. In some cases of Government employees even persons who had retired have been recalled to service even beyond the age of 60 years. The Central Pay Commission were in favour of raising the age of compulsory retirement to 58 years. This recommendation has not been accepted by Government. It is understood that the Government of Bombay are considering the question of extension of the age of retirement of medical officers owing to the short supply of such persons. Agreeing with the directions given by the Sen Tribunal, we direct that after the workman has reached the age of 55 years he may be retired after giving him two months'

notice in writing in case his efficiency is found by the employer to have been impaired; subject to this rule and also subject to any rule under an existing pension fund the workman should not be compelled to retire before he is 58 years old.

515. The demand that the compulsory retirement in the case of employees should not be permitted within five years of the award unless they complete 60 years does not appear to be based upon any sound ground and is therefore rejected.

516. **Maintenance of service books.**—We think that in the case of every employee except one who is engaged on a part-time basis, whether he is a temporary employee, a probationer or a permanent employee, a service book should be maintained, containing at least the following particulars: name, date of birth, identification marks, entry into service as a temporary employee or probationer, confirmation or permanent appointment, pay on such occasions, promotion, pay on promotion, disciplinary action, if any, taken, any remarks about his efficiency or character made by his superiors, leave taken or absence from duty, officiating or acting appointments and deputation, if any, with dates wherever possible, resignation or retirement. When adverse remarks are made against an employee, a gist thereof should be communicated to him in writing with the least possible delay. We direct accordingly.

517. **Redress of grievances.**—(1) An employee desirous of the redress of a grievance relating to unfair treatment or wrongful exaction on the part of the bank or a superior shall either himself, or through a representative of a registered union, submit a complaint to the manager or any officer appointed by the manager in this behalf. The employee shall also have the right to endorse a copy direct to the head of the department for information.

(2) The manager or such officer shall, as soon as possible investigate the complaint at such times and places as he may fix. The employee concerned or the representative of the union shall have the right to be present at such investigation. A copy of the order finally made shall be supplied to him if he asks for one.

Provided that complaints relating to assault or abuse by any person holding a supervisory position or refusal of any application for urgent leave shall be enquired into immediately by the manager or by such officer as he may appoint in this behalf.

518. **Service certificate.**—Every employee who leaves service or retires or is dismissed or discharged shall without avoidable delay be given a service certificate.

519. **Issue of notices and orders.**—Notices which are required to be given shall be served individually on the employees affected and their acknowledgments taken, and shall also be exhibited on the notice boards of the bank at the offices or establishments concerned. Such notices as are so exhibited shall be in English and also in the principal language of the district or locality in which each such office or establishment is situated. Any notice, order, charge-sheet, communication or intimation which is meant for an individual employee shall be in a language understood by the employee concerned. In the case of an absent employee notice shall be sent to him by registered post, with acknowledgment due.

SECTION III—*Procedure for taking disciplinary action*

520. Under the subject of disciplinary action we deal with dismissal, suspension, warning or censure, fine, the making of adverse remarks and the stoppage of an increment.

521. A person against whom disciplinary action is proposed or likely to be taken should, in the first instance, be informed of the particulars of the charge against him; he should have a proper opportunity to give his explanation as to such particulars. Final orders should be passed after due consideration of all the relevant facts and circumstances. With this object in view we give the following directions:—

- (1) By the expression "offence" shall be meant any offence involving moral turpitude for which an employee is liable to conviction and sentence under any provision of law.
- (2) (a) When in the opinion of the management an employee has committed an offence, unless he be otherwise prosecuted, the bank may take steps to prosecute him or get him prosecuted; and in such a case he may also be suspended.

- (b) If he be convicted he may be dismissed with effect from the date of his conviction or be given any lesser form of punishment as mentioned in sub-paragraph (5) below.
- (c) If he be acquitted, it shall be open to the management to proceed against him under the provisions set out below in sub-paragraphs (9) and (10) infra relating to discharges. However, in the event of the management deciding after enquiry not to continue him in service, he shall be liable only for termination of service with three months' pay and allowances in lieu of notice. And he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full pay and allowances minus such subsistence allowance as he has drawn and to all other privileges for the period of suspension; provided that if he be acquitted by being given the benefit of doubt he may be paid such portion of such pay and allowances as the management may deem proper, and the period of his absence shall not be treated as a period spent on duty unless the management so direct.
- (d) If he prefers an appeal or revision application against his conviction and is acquitted, in case he had already been dealt with as above, and he applies to the management for reconsideration of his case, the management shall review his case and may either reinstate him or proceed against him under the provisions set out below in sub-paragraphs 9 and 10 infra relating to discharge, and the provisions set out above as to pay, allowances and the period of suspension will apply, the period up-to-date for which full pay and allowances have not been drawn being treated as one of suspension. In the event of the management deciding, after enquiry, not to continue him in service, the employee shall be liable only for termination with three months' pay and allowances in lieu of notice, as directed above.
- (3) If after steps have been taken to prosecute an employee, or to get him prosecuted, for an offence he is not put on trial within a year of the commission of the offence, the management may then deal with him as if he had committed an act of "gross misconduct" or of "minor misconduct" as defined below; provided that if the authority which was to start prosecution proceedings refuses to do so or comes to the conclusion that there is no case for prosecution it shall be open to the management to proceed against the employee under the provisions set out below in sub-paragraphs 9 and 10 infra relating to discharge, but he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full wages and allowances and to all other privileges for such period. In the event of the management deciding, after enquiry, not to continue him in service, he shall be liable only for termination with three months' pay and allowances in lieu of notice as directed in sub-paragraph (2) supra. If within the pendency of the proceedings thus instituted he is put on trial such proceedings shall be stayed pending the completion of the trial, after which the provisions mentioned in sub-paragraph (2) above shall apply.
- (4) By the expression "gross misconduct" shall be meant any of the following acts and omissions on the part of an employee;
- (a) engaging in any trade or business outside the scope of his duties except with the permission of the bank;
 - (b) unauthorised disclosure of information regarding the affairs of the bank or any of its customers or any other person connected with the business of the bank which is confidential or the disclosure of which is likely to be prejudicial to the interests of the bank;
 - (c) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank;
 - (d) wilful damage or attempt to cause damage to the property of the bank or any of its customers;
 - (e) wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;
 - (f) habitual doing of any act which amounts to "minor misconduct" as defined below, "habitual" meaning a course of action taken or persisted in notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him;

- (g) wilful slowing down in performance of work;
 - (h) gambling or betting on the premises of the bank;
 - (i) speculation in stocks, shares, securities or any commodity, whether on his account or that of any other persons;
 - (j) doing any act prejudicial to the interests of the bank, or gross negligence or negligence involving or likely to involve the bank in serious loss;
 - (k) giving or taking a bribe or illegal gratification from a customer or an employee of the bank;
 - (l) abetment or instigation of any of the acts or omissions abovementioned;
- (5) An employee found guilty of gross misconduct may:
- (a) be dismissed without notice, or
 - (b) be warned or censured, or have an adverse remark entered against him, or
 - (c) be fined, or
 - (d) have his increment stopped, or
 - (e) have his misconduct condoned and be merely discharged.
- (6) By the expression "minor misconduct" shall be meant any of the following acts and omissions on the part of an employee;
- (a) absence without leave or overstaying sanctioned leave without sufficient grounds;
 - (b) unpunctual or irregular attendance;
 - (c) neglect of work, negligence in performing duties;
 - (d) breach of any rule of business of the bank or instruction for the running of any department;
 - (e) committing nuisance on the premises of the bank;
 - (f) entering or leaving the premises of the bank except by an entrance provided for the purpose;
 - (g) attempt to collect or collecting monies within the premises of the bank without the previous permission of the management or except as allowed by any rule or law for the time being in force;
 - (h) holding or attempting to hold or attending any meeting on the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;
 - (i) canvassing for union membership or collection of union dues or subscriptions within the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;
 - (j) failing to show proper consideration courtesy or attention towards officers, customers or other employees of the bank; unseemly or unsatisfactory behaviour while on duty;
 - (k) marked disregard of ordinary requirements of decency and cleanliness in person or dress;
 - (l) incurring debts to an extent considered by the management as excessive;
- (7) An employee found guilty of minor misconduct may:
- (a) be warned or censured; or
 - (b) have an adverse remark entered against him, or
 - (c) have his increment stopped for a period not longer than six months.
- (8) In all cases in which action under paragraphs (3), (5) or (7) may be taken, the proceedings held shall be entered in a book kept specially for the purpose, in which the date on which the proceedings are held, the name of the employee proceeded against, the charge or charges, the evidence on which they are based, the explanation and the evidence, if any, tendered by the said employee, the finding or findings with the grounds on which they are based and the order passed shall be recorded with sufficient fullness, as clearly as possible; and such record of the proceedings shall be signed by the officer who holds them.

- (9) When it is decided to take any disciplinary action against an employee such decision shall be communicated to him within three days thereof.
- (10) The procedure in such cases shall be as follows:—
- (a) An employee against whom disciplinary action is proposed or likely to be taken shall be given a charge sheet clearly setting forth the circumstances appearing against him and a date shall be fixed for enquiry, sufficient time being given to him to enable him to prepare and give his explanation as also to produce any evidence that he may wish to tender in his defence. He shall be permitted to appear before the officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to examine witnesses and produce other evidence in his defence. He shall also be permitted to be defended by a representative of a registered union of bank employees or, with the bank's permission, by a lawyer. He shall also be given a hearing as regards the nature of the proposed punishment in case any charge is established against him.
 - (b) Pending such inquiry he may be suspended, but if on the conclusion of the enquiry it is decided to take no action against him he shall be deemed to have been on duty and shall be entitled to the full wages and allowances and to all other privileges for the period of suspension; and if some punishment other than dismissal is inflicted the whole or a part of the period of suspension may, at the discretion of the management, be treated as on duty with the right to a corresponding portion of the wages, allowances, etc.
 - (c) In awarding punishment by way of disciplinary action the authority concerned shall take into account the gravity of the misconduct, the previous record, if any, of the employee and any other aggravating or extenuating circumstances that may exist. Where sufficiently extenuating circumstances exist the misconduct may be condoned and in case such misconduct is of the "gross" type he may be merely discharged, with or without notice or on payment of a month's pay and allowances, in lieu of notice. Such discharge may also be given where the evidence is found to be insufficient to sustain the charge and where the bank does not, for some reason or other, think it expedient to retain the employee in question any longer in service. Discharge in such cases shall not be deemed to amount to disciplinary action.
- (11) Where the directions given above conflict with the procedure or rules in force in any bank regarding disciplinary action they shall prevail over the latter. There may, in such procedure or rules, exist certain provisions outside the scope of the directions given by us above enabling the bank to dismiss, warn, censure, fine an employee or have his increment stopped or have an adverse remark entered against him. In all such cases also we think that the provisions set out in clauses (8) and (9) should apply, and we direct accordingly.
- (12) It also seems to us necessary that a bank should decide which officer shall be empowered to take disciplinary action in the case of each office or establishment and that it should also make provision for appeals against orders passed in disciplinary matters to an officer or a body not lower in status than the manager, who shall if the employee concerned so desirous in a case of dismissal hear him or his representative before disposing of the appeal. We direct accordingly and further direct that the names of the officers or the body who are empowered to pass the original orders or hear the appeal shall from time to time be published on the bank's notice boards, that an appeal shall be disposed of as early as possible, and that the period within which an appeal can be preferred shall be forty-five days from the date on which the original order has been communicated in writing to the employee concerned.

SECTION IV.—*Procedure for termination of employment.*

522. We now proceed to the subject of termination of employment. We give the following directions:—

- (1) In cases not involving disciplinary action for misconduct and subject to clause (6) below, the employment of a permanent employee may be

terminated by three months' notice or on payment of three months' pay and allowances in lieu of notice. The services of a probationer may be terminated by one month's notice or on payment of a month's pay and allowances in lieu of notice.

- (2) A permanent employee desirous of leaving the service of the bank shall give one month's notice in writing to the manager. A probationer desirous of leaving service shall give 14 days' notice in writing to the manager. A permanent employee or a probationer shall, when he leaves service, be given an order of relief signed by the manager.
- (3) If any permanent employee leaves the service of the bank without giving notice, he shall be liable to pay the bank one month's pay and allowances. A probationer, if he leaves service without giving notice, shall be liable for 14 days pay and allowances.
- (4) The services of any employee other than a permanent employee or probationer may be terminated, and he may leave service, after 14 days' notice. If such an employee leaves service without giving such notice he shall be liable for a week's pay (including all allowances).
- (5) An order relating to discharge or termination of service shall be in writing and shall be signed by the manager. A copy of such order shall be supplied to the employee concerned.
- (6) In cases of contemplated closing down or of retrenchment of more than five employees, the following procedure shall be observed:—
 - (a) two months' notice of such proposed action shall be given individually to all the employees concerned, with a statement of the reasons for such proposed action;
 - (b) the manager or an officer empowered in this behalf shall within the period of such notice hear any representation from the employees concerned or any registered union of bank employees;
 - (c) after the hearing of such representation and the receipt of a report in the matter, if necessary, by the management, if it decides to give effect to the contemplated closing down or retrenchment in the original or an amended form the services of the employees may be terminated by giving notice or payment in lieu thereof for the periods prescribed above.

SECTION V.—*Compensation in cases of retrenchment*

523. It is now well settled that in cases where the services of a workman are terminated on grounds of retrenchment some compensation should be payable to him by way of equitable relief. The principle behind it is that the workman is not responsible, in any way, for the loss of his employment. Even where retrenchment is forced upon the managements by reason of circumstances beyond their control, it is but just that they should give compensation for involuntary unemployment of their workmen when they have had the benefit of their services in the past. This is now so well established that it has come to be regarded as more or less a self-evident principle. Reference may also be made in this connection to the most recent decision of the Labour Appellate Tribunal reported in 1953 (1) Labour Law Journal, 224.

524. We have already provided for gratuity being given in the case of termination of the services of a workman who has put in 10 years' service and more. For other cases, we direct that compensation should be paid on the following scale:—

- (1) Temporary employees who are engaged for indefinite periods shall be entitled to one month's pay and allowances. Where however temporary employees are engaged for definite periods which have been mentioned in their appointment letters no compensation will be payable.
- (2) Permanent employees shall be entitled to half a month's pay and allowances for every completed year of service, subject to a minimum payment of two months' pay and allowances.
- (3) Income-tax and super-tax, if any, on compensation under clauses (1) and (2) above shall be borne by the Bank.
- (4) These payments will be in addition to such pay and allowances as may be due in lieu of previous notice of termination where such notice is not given.

CHAPTER XXVI

Item No. 26: Waiving of age restrictions

525. Item 26 in schedule II to the reference reads thus: "Waiving of Age Restrictions for promotion to Supervisory Grades".

526. It has been urged on behalf of the employees that any rules regarding the age after attainment of which they should not be considered for promotion to appointments of responsibility should be removed. This demand has been raised in connection with an alleged rule of the Imperial Bank of India under which ordinarily persons who have not shown aptitude for work of higher type and responsibility before attaining the age of 35 are not generally considered for such posts. On behalf of the Imperial Bank of India it was stated that in the first place there is no such absolute bar against the promotion of employees who have attained the age of 35 and that about 4 or 5 employees of more than 35 years of age had been recently promoted to higher appointments. The practice is said to be based upon the experience of the bank that if an employee after about 15 years' service has not shown aptitude for a higher type of work even by the time he reaches the age of 35 it is unlikely that he would show fitness for such work after attaining the said age. Mr. Palkhivala on behalf of the Exchange Banks represented by him stated that the age of 35 was not a dead line at all. We have not been given instances of other banks which have any particular rule in this connection or which have enforced restrictions of this type. In the circumstances, we do not see any reasons for giving any directions in the matter.

CHAPTER XXVII

Item No. 32: Rules regarding promotions

527. Item 32 in the reference is as follows:—

"Rules regarding promotions".

528. On behalf of the employees it has been urged (a) posts like those of jamadars and havildars should be filled by promoting other members of subordinate staff and not by direct recruitment, (b) promotions from lower grade should be on the basis of seniority, education and special knowledge of banking, (c) those persons of subordinate establishment who have studied up to pre-matric class should be eligible for appointment in the lower clerical grade, (d) appointments of supervisors, accountants and other officers should be made from among the clerks on the basis of seniority. Some of the employees' Unions such as the Central Bank Employees' Association, Bombay, Allepey, Gonda and Madurai want that length of service should be the sole criterion for the purpose of promotions and demand promotion to officers cadre from clerical grades only. The Imperial Bank of India, Bombay Circle Employees' Union put seniority before efficiency, education and special knowledge of banking for the purpose of promotion. Some unions have suggested that promotions should be made in consultation with them. While the banks are generally prepared to agree to seniority in service, educational qualifications and special knowledge of banking all of them being regarded as main considerations for promotion, they attach great importance to efficiency and character in this connection, and press that it should be left to the management to give proper weights to the various factors.

529. We do not think that any hard and fast rules can be laid down in connection with promotions. We are definitely opposed to the suggestion that employees' unions should be consulted in connection with promotions. It cannot be supported on principle. We do not think that such consultation is likely to be helpful either. While there is no doubt that seniority in service should be one of the most important factors to be taken into account for the purpose, we are unable to agree that mere length of service alone irrespective of efficiency, educational qualifications, character and nature of responsibility required in connection with the vacancies to be filled in should be the sole or even the main criterion for promotion. Promotion is certainly not a matter which could be made automatic and a great deal of discretion by its very nature must rest with the management in this connection. It is not only difficult but very undesirable to lay down any one single principle for the exercise of this discretion. In our opinion there must be cases of employees in the banking industry as elsewhere in which efficiency of some employees does not necessarily improve with mere length of service. Nor do all employees in all cases show capacity for work involving higher responsibilities. The apprehension of the employees underlying the demand for length of service to be the sole governing factor for promotion may be due to apprehensions of nepotism and victimization of employees who take active interest in the trade

union movement. No substantial proof in support of this apprehension has been laid before us, and such cases, if any, can only be dealt with in other ways or as provided by law. We however direct that even when direct recruitment to particular posts is decided on, deserving men already in service who come up to the required educational qualifications should also be enabled to compete for such recruitment by a reasonable relaxation of the rules relating to age and other restrictions, if any. We further direct that in the case of employees who are not found fit for promotion the decision should be borne out by service records of the employees, and that when a person senior in service is superseded it should be for good and cogent reasons. We recommend that such an employee should have the right to appeal to the General Manager or the Managing Director who should consider the appeal with an open mind and revise the decision if necessary, and that such appeal should not be treated as an act of indiscipline on the part of the employee by the officers under whom he may be working.

530. The workmen's demand that persons who have studied up to the pre-matric class should be eligible for promotion to appointments in the lower clerical grade is based upon the assumption that this Tribunal following the Sen Award will insist upon the passing of matriculation or an examination equivalent to it as the minimum qualification. As we have not given any such direction it is not necessary to deal with this demand. It will however suffice to recommend that such members of the subordinate staff as are sufficiently literate and intelligent should be considered for promotion to the clerical grade.

531. As regards the demand for promotions to the supervisory and officers' grades it has been urged on behalf of the banks that it is beyond the scope of the jurisdiction of this Tribunal. We do not consider it necessary to deal with the legal aspect of this question as we find that in actual practice a large number of the present officers of the banks except perhaps in the case of the Exchange Banks are persons who had been promoted from the clerical grade. In this connection our attention was invited to the fact that no less than 1,004 out of 1,165 officers working in the Central Bank of India Ltd. are persons who started their career as clerks. In the case of the Bank of Baroda Ltd. the number of such officers was stated to be 149 out of 334. We were told that probationary assistants were recruited for promotion to the officers' grade and they were given intensive training in the different departments of the bank for a period of about three years. While it is true that the percentage of officers in the Exchange Banks who have been promoted from the clerical cadre and who are entrusted with the work of real responsibility is comparatively small, we understand that steps are being taken to accelerate promotions from clerical grade to supervisory and officers' grades. We hope that the Exchange Banks also will in their own interests as well as those of their employees provide wider opportunities for promotion of the senior clerks to responsible posts.

532. It was urged before us that some banks, for example, the Bank of Baroda Ltd. were sending out some members of the staff abroad for practical training in banking, but they were not making any selections from among the employees in the clerical grade and that the banks should be directed to provide similar facilities to clerks. We however do not think it possible for us to give any general directions in the matter, as ordinarily comparatively junior clerks are hardly fit for such training, and in the case of very senior employees in the clerical grade the banks are unlikely to get the benefit of such training for a sufficient number of years owing to their advanced age. As a matter of fact persons selected for such training are those who are required to work in the officers' grade.

CHAPTER XXVIII

Item No. 27: Policy regarding transfer

533. Item 27 is "Policy regarding transfer of staff".

534. The demands under this head may be thus summed up. Ordinarily no employee should be transferred from one place to another without his consent. Office bearers of the unions in particular should not be transferred against their will. In the case of transfer, the service conditions of his original place, if more favourable to the employee, should be made applicable. Future prospects should not be affected unfavourably. Arrangements for proper housing accommodation at the new place should be made by the bank. A special house allowance should be given for a period of six months or until the employee finds a house at the new place whichever is earlier. The number of transfers in a year should be limited. The banks have vigorously repelled the demands. They point out that the exigencies of service necessitate the transfer of experienced workmen to places where their services can be utilized to the greatest advantage. They quote paragraph 45 of the Divatia Award in support of their stand. In making transfers from one branch to

another the banks, it is urged, give as far as possible full consideration to any difficulties arising out of housing shortage, but they cannot undertake to provide accommodation for workmen so transferred. Any special concessions attached to posts in one locality cannot obviously be continued if the workman is transferred to another locality. Conditions obtaining in places from which the transfer is made cannot, if more favourable, be reproduced in the new place. The banks submit that they would be faced with an impossible situation if in every case workmen's consent or concurrence is required. After all a workman when he joins the services of a bank is expected to work at any place the management, governed by the interests of the institution, determines.

535. Policy regarding transfers is a constant source of friction between the banks and the workmen now organized into unions. The cry of victimization of office bearers and "activists" of trade unions is raised wherever such transfers are mooted. We have found that such allegations are easily made but not so easily substantiated. Transfers are rendered necessary by the exigencies of administration. The proper view to take is that transfers are normal incidents of the working of a bank and they must be left to the discretion of those who guide the policy of the bank and manage its affairs. It is possible that the discretion may be abused and transfers effected on considerations other than the needs of administration. The percentage of transfers as shown by the figures furnished by some of the banks in the course of arguments leads us to the conclusion that the question of transfer, even as it is, affects only a very small number of persons. This is conceded by the workmen also. Still wherever an activist of the trade union movement, as yet in its formative stage and liable to be crippled easily, is transferred a suspicion naturally arises that it is inspired by ulterior motives and the consequence thereof may be an industrial dispute. In order that such suspicions may be avoided as far as possible we, adopting the Sen Award in this respect, give the following directions:—

- (1) Every registered bank employees' union, from time to time, shall furnish the bank with the names of the President, Vice-President and the Secretaries of the union;
- (2) Except in very special cases, whenever the transfer of any of the above-mentioned office bearers is contemplated, at least five clear working days' notice should be put up on the notice boards of the bank of such contemplated action;
- (3) Any representations, written or oral, made by the union shall be considered by the bank;
- (4) If any order of transfer is ultimately made, a record shall be made by the bank of such representations and the bank's reasons for regarding them as inadequate; and
- (5) The decision shall be communicated to the union as well as to the employee concerned.

536. We direct that in general the policy should be to limit the transfers to the minimum consistent with banking needs and efficiency. So far as members of the subordinate establishment are concerned there should be no transfers ordinarily and if there are any transfers at all they should not be beyond the language area of the person so transferred. We further direct that even in the case of workmen not belonging to the subordinate staff, as far as possible there should be no transfer outside the State or the language areas in which an employee has been serving except of course, with his consent. In all cases the number of transfers to which a workman is subject should be strictly limited and normally it should not be more than once in a year. We are unable to accept the demand that residential accommodation should be provided by the bank at the new station. The demand for a special house allowance is also rejected.

537. Strictly limiting the number of transfers will greatly reduce the difficulty of shifting people as between higher scale and lower scale areas in the matter of pay and allowances. Where an employee moves from Class III to Class II or Class I area, or from Class II to Class I area he will get the benefit of the higher scale corresponding to the length of service put in. A reverse movement raises the question whether it is right to deprive him suddenly of an appreciable portion of his emoluments. No doubt as he moves into a low-priced area he gets some advantage in terms of cheaper living. He cannot, of course, claim any special concessions attached to posts in any particular locality from which he is transferred, e.g. house rent allowance, hill allowance etc. We direct accordingly. We further direct that in no case shall an employee's basic pay be reduced on transfer. The wage scale we have fixed is common to all areas except for a few initial increments at the start and the maximum at the end.

CHAPTER XXIX

Item No. 28: Travelling allowance etc.

538. Item 28 reads as follows:—

“Travelling allowance, conveyance allowance, halting allowance and joining time on transfer”.

Travelling Allowance

539. The All India Bank Employees' Association has demanded (1) a double III class railway or steamer fare for a member of the subordinate staff and his dependents, (2) a double II class railway or steamer fare for a member of the non-subordinate staff and his dependents together with a double III class for his servant, and (3) actual expense for luggage including cartage, cooly and conveyance. One of the unions of the Imperial Bank of India has stated its demand thus “Second class railway fare for the employee and all members of his family and one third class railway ticket for a servant should be given by the bank. Where railway facilities are not available allowance at the rate of As. 4 per member of his family per mile should be paid by the bank to all transferred employees. Freight for thirty maunds of goods and belongings of the transferred employee by passenger train should be paid. Cartage at annas two per mile should also be paid. A sum of Rs. 50 should be paid as transfer allowance”. Quite a large number of banks have laid down rules regarding travelling allowance. There are several differences in the rates. We think that a certain measure of uniformity is called for and we direct that the existing rules should be brought into conformity with the rules we lay down within two months of the publication of our award. If the existing rules are more liberal no change should be made. Without going too much into detail we prescribe as follows:—

Employees on Transfer

540. An employee who is not a member of the subordinate staff transferred from one station to another shall be paid his travelling allowance on the following basis:—

- (1) One and one fourth second class fares by rail or steamer for himself and further second class fares for his family if taken when the total emoluments including pay, dearness allowance, special and house rent allowances are below Rs. 200.
- (2) One and a half second class fares by rail or steamer for himself and further second class fares for his family if taken when the total emoluments including pay, dearness allowance, special and house rent allowances are Rs. 200 and above.
- (3) Third class fare by rail or steamer for one servant if taken.
- (4) The cost actually incurred in transferring his personal effects in Bengal maunds at goods rate as follows:—

Range of total emoluments	Married	Unmarried
Rs. 200 and above	20	15
Below Rs. 200	15	12

- (5) Any other expenditure unavoidably incurred such as packing, crating, tonga, cooly hire etc. established to the satisfaction of the sanctioning authority and subject to any rules made by the bank in this behalf.

541. An employee who is a member of a subordinate staff shall for similar journeys be paid as follows:—

- (1) One and a half third class fares by rail or steamer for himself and further third class fares for his family if taken.
- (2) The cost actually incurred in transferring his personal property up to a maximum of ten Bengal maunds at goods rate in the case of a married employee and five Bengal maunds in other cases.
- (3) Actual expenses incurred on cartage, gharl, mazdoor hire etc. established to the satisfaction of the sanctioning authority.

542. Where the place to which or from which an employee is transferred is not connected or partly connected by railway or steamer he shall be entitled to get for himself and his family road mileage at the rate of two annas a mile. The rate is fixed per head both for the clerical and subordinate class.

543. In respect of personal property carried up to the limits specified above to and from the place of transfer, the employee shall be entitled to the actual expenses incurred by him in transporting the same through an "out-agency" if available. In other cases he shall be entitled to the actual cost of transporting the same through an authorised transport company.

NOTE:—(1) Family means an employee's wife and children ordinarily residing with and wholly dependent on him.

(2) When, for any reason, the family of an employee does not travel with him but joins with him within a period of six months from the date of his transfer, an employee shall be entitled to draw the further fares and the cost of transporting luggage payable for the family, subject to the limits fixed in the preceding paragraphs.

(3) Where the family in consequence of transfer travels from a place other than that from which an employee is transferred an employee may draw the actual travelling expenses incurred by his family to join the employee at the new station but the amount so drawn shall not exceed the travelling allowance admissible to the employee were the employee's family stationed at the place whence the employee was transferred.

(4) If the family of an employee in consequence of transfer travels to a station other than that to which the employee is transferred an employee may draw travelling allowance expenses for his family but subject to the condition that the amount so drawn shall not exceed the travelling allowance admissible to the employee had the family proceeded to the station to which the employee was transferred.

(5) An employee shall be entitled to draw the actual expenditure incurred by him for transporting his personal property irrespective of the mode of conveyance engaged by him provided he does not exceed the maximum amount admissible to him for the transport of personal property by goods train except where it is otherwise provided for in this paragraph.

Employees on Tour

544. In the case of journeys by rail or steamer other than on transfer where an employee has to travel for inspection or other duty in the interests of the bank an employee who is not a member of the subordinate staff shall be paid his travelling expenses on the following basis:—

- (1) One second class fare to and fro for himself by rail or steamer.
- (2) One third class fare by rail or steamer to and fro for his servant, if taken, where the period of stay away from headquarters exceeds thirty days.
- (3) The actual cost, if any, of freight of his personal belongings.
- (4) Any other expenditure unavoidably incurred such as tonga, cooly hire etc. established to the satisfaction of the sanctioning authority and subject to any rules made by the bank in this behalf.

545. An employee of the subordinate staff shall be entitled to one third class fare to and fro for himself by rail or steamer. Clauses (3) and (4) supra would equally apply to him also.

546. In respect of journeys performed between places not connected or partly connected by railway or steamer an employee shall be entitled to claim road mileage at the rate of two annas a mile whether he is a member of the subordinate or non-subordinate staff.

General

547. (1) Where an employee travels by a class lower than the one allowed to him he shall be entitled to claim travelling allowance only at the rate actually paid. The banks may, however, pay on the scale allowed where they are satisfied that travel by a lower class is unavoidable and due to circumstances beyond the control of the employee.

(2) All claims should be supported by a certificate from the employee concerned.

(3) The claim for journeys can ordinarily be only for the shortest route.

Conveyance Allowance

548. The demand before us under this head is for an allowance for journeys to and from the place of work, the clearing house etc. The Imperial Bank of India Union's demand is that conveyance allowance should be granted to all classes of workmen at the rate of Rs. 15 per month. We are not convinced that the workmen be paid a monthly conveyance allowance. Conveyance allowance meaning thereby the expenses as for going from employee's residence to office or vice versa must be deemed to be included in our pay scale. The only direction that we give is that where an employee incurs expenditure in the performance of bank's work, he should be reimbursed to the extent that the expenditure is fairly and legitimately incurred.

Halting Allowance

549. The All India Bank Employees' Association demands that a halting allowance of 6½ per cent. of the monthly basic pay be paid to a workman in addition to other emoluments for any day during which he is absent from headquarters on duty. By halting allowance is meant the kind of allowance defined in the Reserve Bank of India Staff Regulations as a "payment made to an employee in addition to other emoluments for any day during which an employee is absent from headquarters on duty and is intended to cover the ordinary daily expenses incurred by him in consequence of such absence". The bank Counsel were not opposed to the grant of halting allowance though they would eliminate all chances of making it a source of profit. We give the following directions in respect of halting allowance for each day:—

(1) Scale of halting allowance shall be as follows:—

For Banks 'A' and 'B'

	In respect of halt in area								
	I			II			III		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
Subordinate staff	2	4	0	2	0	0	2	0	0
employees who are not members of subordinate staff drawing a pay of :									
Under Rs. 100	4	0	0	3	0	0	3	0	0
Rs. 100 to Rs. 149 (inclusive)	5	0	0	4	0	0	4	0	0
Rs. 150 to Rs. 199 (inclusive)	6	0	0	5	0	0	5	0	0
Rs. 200 and above (inclusive)	7	0	0	6	0	0	6	0	0

For Banks 'C' and 'D'

	In respect of halt in area								
	I			II			III		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
Subordinate staff	2	4	0	1	12	0	1	12	0
Employees who are not members of subordinate staff drawing a pay of :—									
Under Rs. 100	3	0	0	2	0	0	2	0	0
Rs. 100 to Rs. 149 (inclusive)	4	0	0	3	0	0	3	0	0
Rs. 150 to Rs. 199 (inclusive)	5	0	0	4	0	0	4	0	0
Rs. 200 and above (inclusive)	6	0	0	5	0	0	5	0	0

"Pay" means basic pay, officiating and special allowances, if any.

(2) For the purpose of halting allowance 'a day' shall mean each period of 24 hours or any part thereof reckoned from the time the employee leaves his headquarters, provided the duration of absence from headquarters covers at least one night.

(3) Halting allowance is payable in addition to the class of fare to and fro to which the employee is entitled for travel as on tour.

(4) *Journeys completed in the same day.*—Where the work entrusted to an employee of the clerical grade is such that it does not involve night stay and enables him to return to headquarters the same day, the employee shall be entitled (a) to a single second class fare to and fro for himself. An employee of the subordinate cadre shall get only third class fare to and fro, and (b) the employees shall in addition be entitled to get *batta* at one-half of the rates fixed above (see clause 1 *supra*) according as he belongs to the clerical or subordinate staff.

550. The All India Bank Employees' Association has asked for ten days joining time besides the actual time for journey, the whole period not to be deducted from the earned leave account. The general demand from the workmen of the Imperial Bank of India is for a joining period of seven days in addition to the actual days required for travelling and these days should not be deducted from the leave account of the transferred employee. The Imperial Bank of India in its written statement points out that joining time as such was not given before the Sen Award but that except in the case of temporary and urgent transfers sufficient notice was given to enable all employees to take up or resume duty. The bank Counsel explained that sufficiently reasonable time is allowed to the workmen as joining time on transfer from one place to another. We however consider it expedient to frame rules on the issue of joining time. Of course, no joining time shall be admissible when the transfer does not involve a change in the situation of his office and a joining time of not more than one day (inclusive of a holiday or Sunday) is permissible when the new appointment takes place in the same town or station.

551. We give the following directions:—

- (1) Joining time shall be granted to an employee to enable him:
 - (a) to join a new post to which he is appointed while on duty in his old post; or
 - (b) to join a new post on return from leave.
- (2) An employee in respect of joining time shall be entitled to the pay and allowances of the old or the new post whichever are less.
- (3) Joining time which shall be allowed to an employee shall not exceed six days, exclusive of the number of days spent on travelling.
- (4) In calculating joining time admissible to an employee, the day on which he is relieved from his old post shall be excluded but public holidays following the day of his relief shall be included in the joining time.
- (5) An employee who does not join his post within the joining time allowed to him shall be deemed to have committed a breach of discipline.

552. In laying down the above directions we are quite aware that we are not providing for every conceivable case that may arise under the above heads. In fact it is not our purpose to lay down a detailed code. We can only indicate in this as well as in other issues the broad principles leaving it to the banks to interpret our directions liberally so that they may cover every other case which has not been possible for us to consider.

CHAPTER XXX

Item No. 7: Subsistence allowance during periods of suspension

553. Item 7 in Schedule II to the reference is as follows:—

"Subsistence allowance during periods of suspension."

554. The workmen have demanded that all employees should be paid their full pay and other benefits during the period of suspension. The banks oppose this demand. They point out that employees are suspended only when serious charges which may result in dismissal are brought against them and that if the charges upon which suspension is made are not substantiated the employees are paid their full salary and allowances and therefore no interim allowance need be paid.

555. During the arguments, Counsel on behalf of the banks contended that, according to decisions in Civil Law, when a workman is suspended, his contract of service also remains suspended and that there is no right to wages or salary because there is no obligation on him to attend to work. Where, however, the workman is required to be present it is stated that the legal position may be different. Nevertheless, Counsel on behalf of the banks recognized that it is just and equitable, whatever the legal decisions under Civil Law may be, that some allowance should be given to workmen under suspension as they should not be left to starve during the period of suspension. It was suggested that for the first three months no allowance need be paid, but that if departmental enquiry was not concluded within three months, some small allowance might be given. On behalf of the workmen it was urged that there have been very many instances where the workmen were suspended and the enquiries extended for very long periods, sometimes even more than a year in an appreciable number of cases. There may be also a distinction according as the enquiry is being held departmentally by the bank itself or by an outside agency as, for instance, in the case of a

criminal prosecution before the ordinary Courts of the land. The workmen claimed that, in any event, full salary and allowances should be paid for the first few months and thereafter if the workman was mainly responsible for the delay a fair portion of the salary only may be given. On the other hand, the banks contended that usually some time must elapse for a branch to report to the head office and then for charges to be framed in the light of the report. Time had to be given for getting an explanation from the employee before an enquiry was started and therefore for a period of three months no allowance should be paid at all; thereafter if the banks were responsible for the delay in the enquiry some small allowance might be paid.

556. The Sen Tribunal directed in paragraphs 324 of their Award that an employee should be entitled during the period of his suspension to a subsistence allowance at such rates as the suspending authority may direct, but not less than one-third of the pay and allowances which he would, but for the suspension, have drawn.

557. Having considered the matter in all its aspects, we think that suspension allowance should be granted on the following scale:—

- (1) For the first three months one-third of the pay and allowances which the workman would have got but for the suspension;
- (2) thereafter, where the enquiry is departmental by the bank, one-half of the pay and allowances for the succeeding months. Where the enquiry is by an outside agency, one-third of the pay and allowances for the next three months and thereafter one-half for the succeeding months until the enquiry is over.

558. We have increased the scale beyond three months as we think that undue delay will cause serious hardship to the workmen. As the number of cases of suspension involving payment of subsistence allowance cannot be very large, we think that the scale we have laid down will not be much of a burden for the banks, while at the same time it will provide for a decent measure of subsistence for the workmen.

CHAPTER XXXI

Item No. 34: Standing Orders

559. Item 34 is framed thus: "Standing orders regulating the conditions of service of staff and the procedure in making amendments to them."

560. We have already dealt with a large group of subjects under separate issues that would appropriately come under "Standing Orders". Reference may be made to our chapters on leave rules, hours of work and overtime, method of recruitment and conditions of service, subsistence allowance, transfers, promotions and so on. Our directions in all these matters cover the topics usually comprised under Standing Orders. We propose to give no further directions. No party appearing before us raised any further issues and no one addressed any arguments on the procedure in making amendments to Standing Orders.

561. The directions given by us in various matters that fall under "Standing Orders" taking the term in its wider significance should be understood as being subject to the provisions of any law for the time being in force. Thus the provisions of Section 33 of the Industrial Disputes Act, 1947 will apply if there be an industrial dispute and the dispute is referred to conciliation or to a tribunal for adjudication.

CHAPTER XXXII

Item No. 6: Income and professional taxes

562. This item runs as follows:—

"Whether income and professional taxes payable by workmen should be paid on their behalf by banks?"

563. The demand under this head is that the banks should pay income and professional taxes that are payable by its workmen. At present a few banks like the National Bank of India Ltd., the Central Bank of India Ltd., and the Bank of Baroda Ltd. are paying the income-tax on behalf of certain workmen. The Lloyds Bank Ltd., the Chartered Bank of India, Australia & China and the Bank of India Ltd. were paying income-tax in some cases but that practice has been discontinued. All the other banks have not been making such payment at

any time. In our opinion there is no principle which could justify the recognition of this demand. There is nothing either in the nature of the tax or in the nature of the bank employees' work which requires that the bank should shoulder the burden of the income-tax for the workmen. Like any other citizen who is liable to income-tax, the burden should be borne by the workman concerned. The considerations which were urged before us in support of the demand were:—

- (1) Shareholders generally get dividends free of income-tax;
- (2) certain officers in some banks get their salary also free of income-tax, and
- (3) so long as the workmen are not getting a living wage this concession may be regarded as an additional benefit which is justified in the circumstances.

In our opinion, the first consideration is really beside the point. As far as the second is concerned, we think the fact that some concession is given in favour of officers in some cases is not a real justification for acceding to the demand of the workmen. Rather, the desirability of continuing such a concession in the case of officers would have to be reviewed by the managements. The third consideration also is really not one of much force, as the concession asked for can operate to the advantage of only a section of the workmen. It may also be pointed out that the present rule of exemption under the Indian Income-tax Act will apply to most of the employees in question as it is only on income over Rs. 300 per month that income-tax is payable. We have not been shown any award of any Industrial Tribunal that has recognized this claim on behalf of the workmen. Previous bank awards also negatived such a claim. As we are of the same opinion that demand is rejected. Similar considerations apply to the payment of professional taxes. This demand is rejected. We however direct the continuance of the existing amenities regarding payment of such taxes in case of those workmen who are enjoying them on the date of the publication of this award.

CHAPTER XXXIII

Item No. 24: Utilization of proceeds from fines

564. The demands of the workmen under this head are two-fold:—

- (1) Banks should have no power to impose any fine, and
- (2) fines levied in the past should be refunded to the respective employees if they are in services. Where they are not in service and are not traceable, such amounts should be handed over to the concerned unions to be spent by them for the benefit of the workmen in general.

565. The first demand really comes under item No. 23 of the reference, viz. conditions of service etc. However, we shall deal with the matter here. The power to levy a fine as a form of punishment need not be altogether taken away. It was recognized in the Model Standing Orders framed by the Government of Bombay in relation to the banking industry under the provisions of the local Industrial Relations Act. It is also recognized in the Payment of Wages Act, 1936. While we appreciate that this form of punishment should, in course of time disappear we are not satisfied that we should withhold recognition of this method of punishment at the present stage. It has a place and serves a purpose in a graded scale of varying punishments. Where a comparatively minor breach of discipline is repeated in spite of a warning given on the first occasion the imposition of a small fine will be appropriate. We are, however, of opinion that this power should be exercised in very rare cases and generally in the case of the subordinate staff only. The Staff Regulations of the Reserve Bank of India do not contain a provision for the imposition of fines. The Imperial Bank of India and some of the major Exchange Banks also do not impose fines. Even where some banks exercise the power, the amounts of fines imposed are generally very small. The objection of the employees to this form of punishment is that it takes away a portion from their already small subsistence wage. There is force in this contention. We trust that this form of punishment will gradually disappear and will become obsolete. However, for the present we recognize the same but subject to the following limitations:—

- (1) No fine shall be imposed on a workman until he has been given an opportunity of showing cause against the fine.
- (2) Every bank must keep a register of fines and make the appropriate entries therein. Such register shall contain a brief note of the charge against the employee, the explanation offered by him, the finding and the amount of the fine levied on him.

- (3) The total amount of fine which may be imposed in any one calendar month on any workman shall not exceed an amount equal to $\frac{1}{2}$ anna in the rupee of the salary and allowances payable to him in respect of that period.

Explanation.—Punishment in the form of stoppage or postponement of increments does not fall under this head.

566. As regards demand No. 2, it was originally stated that all fines imposed ever since the incorporation of a bank should be refunded but when the practical difficulties were pointed out the demand was modified subsequently. It was confined to the refund of fines imposed after 13th June 1949. It was admitted that the amounts would be very small in any case and it was not quite clear whether in the case of all the banks the necessary records are preserved. We are of opinion that this demand should be rejected, particularly because if the fines are to be refunded the banks must have the liberty to impose some other kind of punishment in connection with the misconduct for which the fines were originally levied. This was pointed out to the workmen. The only reply that was given was that such a course should not be permitted either, although the fines should be refunded. We are not able to agree to this. We accordingly reject this demand. As regards the further demand that all fines, even if permitted, should be accumulated and handed over to the Unions concerned to be spent by them for the common benefit of the workmen, we do not see any reason to uphold it. Although Section 8 of the Payment of Wages Act, 1936 (Act XIV of 1936) was invoked in support of that demand, we do not propose to give such a direction, firstly, because the amounts are very small and secondly, as already stated by us, we hope that this method of punishment would really become obsolete in a few years.

CHAPTER XXXIV

Item No. 36: Permission for pensioners before re-employment

567. Item 30 of the reference reads as follows:—

“Should bank pensioners be entitled to accept employment after retirement with or without the permission of the banks from which they draw their pensions?”

568. Generally speaking the banks before us have no pension schemes. There are a few exceptions. The Imperial Bank of India, the Allahabad Bank Ltd., the Hyderabad State Bank and a few of the Exchange Banks like the National Bank of India Ltd., the Lloyds Bank Ltd., the Chartered Bank of India, Australia and China, the Grindlays Bank Ltd., the Mercantile Bank of India Ltd. and Netherlands Trading Society have pension schemes. One of the pension rules in these schemes is generally to the effect that before re-employment a pensioner should first obtain the permission of the bank for such re-employment. Rule 14 of the Rules and Regulations of the “Employees’ Pension and Guarantee Fund” of the Imperial Bank of India is as follows:—

“An employee after retirement shall not be at liberty to enter any other bank’s service without in the first place obtaining the sanction of the Central Board in the case of officers and in the case of other employees of the Local Board or the Central Board, as the case may be, concerned with his employment, and should he undertake service without the sanction required under this rule it shall be competent for the trustees to withdraw the pension payable to him either in whole or in part at their discretion.”

Rule 15 of the Rules and Regulations of the “Employees’ Pension Fund” of the Hyderabad State Bank reads thus:—

“An employee after retirement shall not be at liberty to enter any other bank’s service without in the first place obtaining the sanction of the Board and should he undertake service without the sanction required under this rule it shall be competent for the Administrators to withdraw the pension payable to him either in whole or in part at their discretion.”

Rule 12 of the “Rules governing pensions to Indian Staff” of the National Bank of India Ltd. reads thus:—

“If any person while in receipt of a pension shall enter the service of another banking institution, his pension shall thereupon cease to be payable.”

Rule 13 reads as under:—

"If any person while in receipt of a pension shall without the consent of the bank engage in any business or enter any service other than the service of another banking institution, or knowingly take or cause to be taken any action inimical to the interests of the bank, the bank may determine that his pension or some part thereof shall cease either permanently or temporarily and thereupon the same shall cease to be payable accordingly. The bank may at any time determine that a pension or part of a pension which has so ceased to be payable shall be revived in whole or in part and thereafter the same shall accordingly again become payable."

569. The demand of the workmen under this head is that they should be at liberty to accept employment after retirement without the permission of the banks from which they draw their pension. The banks contended before us that the restrictions embodied in the above rules were reasonable and were intended to protect the legitimate interests of the banks and should continue to be recognized as hitherto.

570. This issue in identical terms was also before the Sen Tribunal and in paragraph 359 of their award they came to the conclusion that such restrictions should be done away with.

571. On this issue, the Imperial Bank of India's statement is as follows:—

"The Bank does not object to a pensioner augmenting his pension from emoluments obtained in a concern which is not a Bank. It does, however, reserve the right to suspend the payment of a pension and consider its restoration if an employee accepts service with another Bank because such other Bank may be in competition with this Bank. Accordingly an application to the Bank to take up service in another Bank is essential and each application must therefore be considered on its own merits."

572. Mr. Lawrie in his arguments before us stated that in practice there were very few cases of re-employment of pensioners and that consent was withheld only in rare cases. It was argued before us strenuously on behalf of the banks concerned that the principle of loyalty to the Bank justified the retention of this rule and that it was needed also because confidential information which the employees had gathered during their service might otherwise be divulged to competing banks.

573. Mr. Palkhivala on behalf of the Exchange Banks practically admitted before us that so far as the subordinate staff were concerned a rule of that sort was not necessary and that it would be reasonable to restrict the rule to cases of other pensioners accepting service in competing banks.

574. A suggestion whether it is not sufficient to impose a short time limit during which period a pensioner after retirement should not enter services of another bank without the prior permission of the bank which grants a pension, did not find favour with the bank managements.

575. We have considered the matter carefully. We are of opinion that rules of this sort placing restrictions on the pensioners should be abolished. In the first place, such rules are obviously not required in the case of the members of the subordinate staff who are pensioners. Secondly, most of the banks, as already stated above, have no pension schemes and consequently there is no provision for ex-employees of such banks being required to seek permission before accepting service in another bank. Even in cases where employees have been given the provident fund and gratuity amounts by these banks, no such rule has been found necessary. Thirdly, the workmen with whom we are concerned are not generally in charge of top secrets of the banks as their work is more or less of a routine nature. Fourthly, employees who retire earlier than the full period qualifying for pension are under no obligation to seek permission for re-employment. Fifthly, employees who are dismissed for misconduct have no such disability. In these circumstances, the imposition of a condition that pensioners alone should obtain permission before seeking engagement in a bank or elsewhere is unnecessary and likely to result in hardship. In actual practice cases of re-employment are not many and generally it has not been found necessary even in these few cases to withhold consent. The retention of rules imposing restrictions on re-employment of pensioners is not, therefore, justified although it is true that the workmen have not been able to establish before us that in the past permission has been unreasonably withheld.

576. We are aware of the existence of certain rules of the Government of India and State Governments relating to re-employment of pensioners in other services after retirement. It may well be that there are suitable cases which justify the imposition of reasonable restrictions. Even in the banking industry a rule of that sort with reference to officers who are likely to be in possession of valuable or confidential information gathered during their service may perhaps be needed. The work done by the clerical and subordinate staffs is not of such a nature as to require restrictions of the kind demanded by the banks.

577. It may also be pointed out that while arguing this item of dispute no objection was raised on the ground of want of jurisdiction or the absence of necessary parties before us. The banks were apparently content to take our decision on the merits of the dispute.

578. Our award accordingly is that there should be no rule compelling bank workmen who are pensioners to accept employment after retirement only with the permission of the banks from which they draw their pensions. Wherever such rules exist they should be cancelled and we direct that the banks should take necessary steps to get them abolished.

CHAPTER XXXV

Item No. 11: Banks under moratorium

579. Item 11 in schedule II to the reference is as follows:—

"In what manner and to what extent do the decisions of the Tribunal require modification in the case of workmen of banks under moratorium."

580. In the list of banks made parties to this reference there is only one bank, viz. the Calcutta National Bank Ltd. which is set down under the heading "banks which have suspended payments, or are granted moratorium or are prohibited from accepting fresh deposits". We are not aware of any other Bank which comes under this category of banks under moratorium. Even the Calcutta National Bank Ltd. is now under orders of liquidation. It is not necessary, therefore, to deal with this item of dispute. We may, however, draw attention to the provisions of Section 37 of the Banking Companies Act, (X of 1949). Under this section the Court, i.e. the company Court, may on the application of a banking company which is temporarily unable to meet its obligations make an order (a copy of which it shall cause to be forwarded to the Reserve Bank) staying the commencement of continuance of all actions and proceedings against the company for a fixed period of time on such terms and conditions as it shall think fit and proper, and may from time to time extend the period so however that the total period of moratorium shall not exceed six months. The Court is to obtain a report of the Reserve Bank of India on the affairs of the banking company. The object is to enable the Court to give suitable directions as regards the need for moratorium and also its duration. The special position of the banking company which applies for relief under this section accompanied by a report of the Reserve Bank of India will have to be considered in the light of such information. It is not possible to give a general direction as to how far our award should be made applicable to the workmen of such banks. Ordinarily, the conditions existing at the time of application would continue to govern the banks and its employees. We need not lay down any general rule as to what modification should apply even during the period of moratorium, if any. As stated already, the only bank which might come under this head is now under orders of liquidation. No further directions are therefore necessary by us in respect of this matter.

CHAPTER XXXVI

Item No. 22: Recognition of Unions

581. Item 22 in schedule II to the reference reads as follows:—

"Recognition of the All India Bank Employees' Association and/or its constituent units."

582. The demand under this head is—(1) that the All India Bank Employees' Association and its component units should be recognized by all the banks, and (2) such of the workmen as are office-bearers of the Association and/or unions should be given all facilities for legitimate trade union activities. The written demands while stressing the necessity for recognizing the All India Bank Employees' Association and supporting the same by reasons made only a general reference to the question of recognition of its constituent unions. No list of the unions was furnished with the demands and no documents connected with the constitution, objects, management etc. were produced. The banks, in their written replies, take

up the position that recognition of an union is not an industrial dispute and secondly that in view of the Indian Trade Unions (Amendments) Act (XLV of 1947) not having yet come into force, the Tribunal should not make it obligatory on the banks to recognize any unions and that the matter should be left to be governed by legislative provisions that are at present under consideration.

583. During arguments, Counsel on behalf of the workmen, realizing the difficulties resulting from the non-registration of the All India Bank Employees' Association under the provisions of the Indian Trade Unions Act of 1926 (XVI of 1926) laid greater emphasis on the recognition of its constituent units. Even then a complete list of the unions with their rules and regulations, membership and other necessary materials were not made available to the Tribunal. The argument therefore proceeded on general lines that at least wherever a constituent union was able to satisfy the bank management that all the conditions introduced by Section 28(D) of the Indian Trade Unions (Amendment) Act, 1947, are satisfied the bank should recognize that union and the union so recognized by the bank should have all the rights that Section 28(F) of the said Act confers on recognized unions. We were asked to give an award laying down a general rule on these lines and to leave it to the unions to get recognition from the banks. Mr. Phadke on behalf of the Imperial Bank of India workmen also urged this demand for recognition of the All India Bank Employees' Association to which the Bengal Circle of the Imperial Bank of India Staff Association is affiliated, but with an important reservation, viz. that the final voice in the settlement of any question in relation to the Imperial Bank of India employees should only be with the three Circle Associations of the employees and not with the All India Bank Employees' Association. He also asked for directions for recognition of some unions which are not affiliated to the All India Bank Employees' Association.

584. We shall deal first with the legal contention. An industrial dispute must be a dispute connected with employment or non-employment or the terms of employment or conditions of labour of any person. The dispute in this case relates to the question of recognition of the union. On recognition, the union would acquire a right to negotiate with the employer in respect of the above matters and the employer must receive and send replies to the executive of the union and grant interviews to that body regarding such matters. The executive of the recognized trade union will also be entitled to display notices in the premises and the employer must afford the executive all reasonable facilities for the same. Does this right to negotiate with the employer on matters connected with the employment or non-employment or terms of employment or conditions of labour amount to a dispute connected with such matters? If the answer is in the affirmative, then there is an industrial dispute. If not, there is none. The Sen Tribunal decided by a majority judgment that the right to negotiate on such matters in an antecedent right, the grant of which enables the union to raise any dispute connected with employment etc. and a dispute regarding the right to negotiate by itself is only a dispute remotely connected with employment, non-employment etc. particularly because in certain cases the exercise of the right to negotiate might bring about an understanding between the employers and employees so as not to reach the stage of a dispute at all and hence a dispute about recognition is not an industrial dispute. Justice Sen, the Chairman of the Tribunal did not, however, agree with the conclusions of the other two members. In his opinion, the demand that an union should be recognized for purposes of negotiation is directly and vitally connected with questions of employment, non-employment, terms of employment and the conditions of labour etc. of all the members of the union as well as other employees. Such recognition would secure the advantage of collective bargaining and collective bargaining is obviously connected with employment etc. of the employees. In this view, the dispute about recognition is an industrial dispute. (See Gazette of India Part II Section 3, dated 19th August 1950 p. 444).

585. We are of opinion, that the reasoning of the dissenting judgment is right and should be followed. There is no warrant for the view that the right to negotiate can only be an antecedent right, the grant of which enables the union to raise a dispute. A dispute may well have arisen already and the question how it is to be decided, whether by the individual member concerned negotiating with the employer or by an union taking it up and promoting a settlement, is a matter which is certainly connected with that industrial dispute. The machinery for settling a dispute relating to the terms of employment etc. is as much connected with the dispute as the merits of the differences between the parties. This is as important and sometimes even more important than the merits of the particular controversy. If so, a dispute as to what is the proper machinery is also a dispute which is connected with the terms of employment etc. A dispute about recognition is, therefore, undoubtedly an industrial dispute. We cannot, therefore, agree with the main reasoning in the judgment of the majority of the Sen Tribunal and we respectfully differ from it and prefer to follow the dissenting view of the learned Chairman of the Tribunal.

586. The question then arises as to whether we should, in the circumstances, give any directions relating to recognition either of the Association or its constituent units. The banks contended generally that the new Chapter IIIA of the Indian Trade Unions Act of 1926 which has been inserted by the Indian Trade Unions (Amendment) Act of 1947 lays down a scheme for the recognition of trade unions. It regulates the conditions pre-requisite for recognition and the rights which flow on recognition under certain circumstances. The scheme must be taken as a whole and a part alone cannot be given effect to, leaving the rest to be ignored. The general argument was that it should be left to the Legislature to bring this chapter into force in which case there will automatically be an appropriate method of recognizing unions subject to well-considered statutory provisions relating to all connected matters, including withdrawal of recognition. In this view, it would be most inappropriate for this Tribunal to compel the banks to recognize the unions and confer on them the rights as under Section 28(F) of the said Act without at the same time making them liable to carry out their obligations under the Act and to satisfy the conditions pre-requisite for recognition as set out in Section 28(D) of the Act. The demand by the workmen was characterised by the banks as substantially a demand for bringing the Act into force and at the same time amending it by releasing the unions from their obligations under the Act. The contention of the workmen was that even though five years have elapsed the Government have not yet brought the Act of 1947 into force and there is no knowing whether it will be done in the near future. The whole question of employer/employee relationship and trade union rights is again under consideration and it might take time for any settled policy to evolve and legislative action to follow. We were, therefore, asked to deal with this matter in relation to this particular industry of banking and direct recognition with appropriate conditions. As already stated it was suggested that wherever the conditions provided in Section 28(D) of the Act by the legislature were satisfied, recognition should be made compulsory with rights as under Section 28(F) to follow as a matter of course. The absence of the appropriate machinery envisaged under the Act for granting recognition or withdrawing the same and the absence of other statutory safeguards were ignored. It does not seem therefore proper to adopt in toto the suggestion of the workmen and to direct compulsory recognition without providing for the withdrawal of recognition under well defined conditions. It was suggested that a minimum percentage of membership of the workmen in the union should suffice to demand recognition. 25 per cent. was suggested. The general view of the banks was that no recognition should be accorded to an union which contained employees of other banks or outsiders. They were willing to recognize unions exclusively consisting of members who are their own employees subject to certain conditions and with liberty to withdraw such recognition in certain eventualities. In other words, while they were willing to make an approach in favour of recognition of unions they insisted on stringent conditions, mainly, it was stated, with a view to preventing outsiders who are not really interested in the employees from getting facilities to create discord where otherwise there would be harmony.

587. In the present trend of the trade union movement, it is not only proper but almost necessary for the banks to recognize unions of employees. Too many restrictions should not be placed so as to curtail the benefit of such recognition. It will be in the interest of the banks themselves to promote settlement of differences through organized unions rather than in any other way. Even now some of the major important banks have voluntarily recognized some of the unions in some places at any rate though not in all. The Imperial Bank of India carries on correspondence with the four Staff Associations though not directly with the Federation. The Chartered Bank of India, Australia and China have recognized the unions in some of its branches; as also some of the other exchange banks. The U.P. Bank Employees' Union which is a regional union and which, it is stated, has complied with all the conditions laid down by Section 28(D) of the Trade Unions Act has not, however, been recognized by these banks.

588. The All India Bank Employees' Association has not been registered under the Trade Unions Act though most of its component units are registered. Though in view of the general policy underlying Chapter IIIA of the Indian Trade Unions Act, it is difficult to give direction to recognize that Association in terms of the Act, we think that bank should recognize that Association subject to certain limitations. It represents by far the largest number of bank employees. The Government have recognized it as such and has invited its co-operation in several conferences as representing bank employees. Even in the proceedings before us a majority of bank employees were represented by that Association and a common demand was put forward on their behalf. It is obvious therefore that the All India Bank Employees' Association has a representative character which would ordinarily entitle recognition, even though it is not a registered union under the

Trade Unions Act. We therefore direct that all banks other than the Imperial Bank of India should recognize this Association and such recognition should carry with it the rights of negotiation and correspondence and interviews on the lines laid down in Section 28(F), sub-sections 1, 2, and 4 of the Trade Unions Act. Such recognition may be withdrawn however at the bank's discretion if the executive or the members of the Trade Union have committed any unfair practice of the kind mentioned in Section 28(J), clauses (a) and (b) of the Act or if it should cease to be representative of the workmen in any substantial degree. Membership to the extent of 25 per cent. of the employees is in our opinion adequate. We note that the rules of this Association do not provide for the procedure of declaring a strike. Its practice however is to take a ballot and also give reasonable notice to Government and to employees beforehand. In the circumstances we think that it would be unwise to wait until the rules provide for such a procedure and to refrain from giving any directions whatever. We direct its recognition even now but if within six months of the publication of the award its rules do not provide for the procedure for declaring a strike the banks may at their discretion withdraw such recognition.

589. With regard to its constituent unions also, we direct that banks should recognize such of the constituent unions as are able to satisfy the banks that the conditions of Section 28(D) of the Act aforesaid are fulfilled, in which case, also similar rights and obligations, subject to the limitations (viz. bank's right to withdraw the recognition) as we have provided in the case of the All India Bank Employees' Association shall apply to such recognized unions. As regards the U.P. Bank Employees' Union however we find from documents filed before us that the conditions of Section 28(D) of the Act are satisfied and we direct that that union should accordingly be recognized by the banks subject nevertheless to the rights of the banks to withdraw the recognition under circumstances set out above. We give no directions as regards recognition of unions other than these as the dispute is confined only to the recognition of the All India Bank Employees' Association and/or its constituent units. We think, however, that it will be right on the part of banks to adopt the same policy wherever possible with reference to the other unions as well. We have ourselves not investigated whether or not any of the constituent unions of the All India Bank Employees' Association has complied with the necessary conditions for recognition as sufficient materials were not placed before us. We have, therefore, given only general directions to be implemented in the light of the facts relating to each such constituent union of the Association.

CHAPTER XXXVII

Item No. 29: Compensation to refugee employees

590. Item 29 of the reference is: "Whether cash compensation is payable to staff of branches situated in Pakistan who have had to come away to India and have not been employed in the branches in India".

591. The demands of the workmen on behalf of the displaced employees formerly working in Pakistan offices of Indian Banks may be thus summed up:

(1) All the employees of the Pakistan offices shall immediately be absorbed in the Indian Union officers. Those employees who have not yet been absorbed shall be paid full pay and allowances from the date from which their emoluments were discontinued. This period shall not be counted as a break in service.

(2) The period of absence of these employees of the bank who are absorbed in Indian offices but could not join their duties immediately just after partition due to circumstances over which they had no control, shall be treated as special leave and they shall be paid their pay for such period. The leave if deducted out of their earned leave or treated as leave without pay shall be restored to them.

(3) All refugee employees should be paid by the bank two years' salary including all allowances as compensation for losses they suffered.

(4) The remark in the service book of any such employee stating "absconded or deserted from..... office without permissionetc." should be removed forthwith and the period of such absence should be counted for pension.

(5) Refugee employees should be paid full travelling allowance for their complete kit from the place of his previous appointment to the place of the new appointment. The gap between these periods be treated as active service eligible for pay, allowances and bonus.

592. In the course of the arguments before us these demands were not pressed in their original vigour. It was realized that the issue through lapse of time and through adjustments that necessarily take place in the course of passing years

had lost much of its significance. The demands therefore came to be considerably modified. In fact Mr. S. S. Dighe said that the All India Bank Employees' Association would be satisfied with what the Sen Award gave, knowing that the Sen Award had narrowed down the demands to a matter of cash compensation in terms of six months pay and allowances, provident fund and the security amount, if any. Mr. Phadke supported Mr. Dighe and added that the issue should include all persons not re-employed on 13th June 1949 and where there is re-employment there should be continuity of service.

593. We were concerned to know how many banks and how many workmen were involved. It was ascertained that the following banks were affected: Bank of India, Central Bank of India, Imperial Bank of India, Lloyds Bank, Grindlays Bank, United Commercial Bank, Chartered Bank of India, Australia and China, Punjab National Bank, Allahabad Bank, National Bank of India and the Displaced Banks. Mr. Dighe, preferred the information that roughly in all 100 were still without any employment. Mr. Singh for the Punjab National Bank stated that his bank had 96 branches in Pakistan, that the bank had lost heavily as a result of partition, that nearly all the refugee employees were absorbed and that the few that were unemployed were given compensation. Mr. Vimadlal for the Central Bank of India said that in 1947 there were 1003 workmen in Pakistan out of whom 333 were absorbed, several were discharged on payment of one month's salary and the full provident fund including bank's contribution, some were offered employment but did not accept and there were now only 24 pending cases to whom the bank is prepared to pay such compensation as the Tribunal directs.

594. Mr. Seervai said that the issue as worded in the reference would only admit of compensation being granted and questions like continuity of service should not arise. The events which took place were not under the control of the banks and they who had already suffered heavy losses should not be penalised for circumstances which were not of their own creation. The banks were unable to absorb all of them in India. These workmen were recruited in Pakistan and their services were terminated in Pakistan. The Industrial Disputes Act could not operate beyond India. Mr. Palkhivala supported Mr. Seervai on the point of there being no jurisdiction since the contract of service was in Pakistan and not in the country in which the Tribunal operates. The Counsel for banks also urged that while no bank wished to deny the benefits earned by its employees, its contribution to the provident fund could not be given if less than five years service was put in, as it was one of the conditions on which the fund was recognized by Income-tax authorities.

595. The issue of cash compensation to the refugee staff has been referred to us. We must be deemed to have jurisdiction to deal with the question. In any event, the banks assured us that they will implement such provisions as we may make in view of the very exceptional nature of the circumstances. These displaced employees of banks were citizens of India till the partition took place, and the creation of a new State under circumstances which brought about a refugee problem cannot deprive them of their rights to make a living in the accustomed manner in the country to which they were forced to migrate. They were citizens of India up to the moment of partition and they continued to be citizens of India when they migrated to India within a reasonable time or thereafter. We are disposed to take the view that they have a right to protection and a right to sympathetic treatment. We do not say that compensation should be given to all of them indiscriminately. Those that are deserving have a claim on the goodwill of the banks and the claim may be satisfied in so far as the banks which have also suffered heavily have the capacity to do so.

596. Apart from the general issue of compensation there are before us 15 applications filed by individual refugees claiming reinstatement, compensation or other reliefs of a similar nature. Their names have been set out in the schedule here below. Of these, one is from an ex-employee of the Punjab National Bank Ltd; one is from the Imperial Bank of India; two are from the Central Bank of India Ltd; four are from the Bank of India Ltd; one is from the Traders' Bank Ltd; and the remaining six are from the United Commercial Bank Ltd.

597. It must be said to the credit of the banks that they were quite prepared to take a humane view of the whole problem in spite of the arguments on the legality and propriety of claims addressed before us. Only they stressed that any relief to be given by the Tribunal should not be taken as a precedent.

598. Out of these 15 applicants as many as seven appeared before us in person. We have perused the materials that have been placed before us and we are of the opinion that all these 15 applicants deserve compensation as a sort of "retrenchment relief" in view of the fact that the banks did not absorb them. It may be that a few of them actually resigned. In respect of certain others, the banks have

said that they deserted their post. But whatever these workmen did or were alleged to have done they should not be viewed as normal actions of ordinary individuals, as they were then living in times of extraordinary danger, agony and suffering and the magnitude of the problem was such that nobody could have visualised its intensity until it actually happened. Apart from these 15 applicants the Central Bank of India Ltd. placed before us an exhibit containing the names of ex-members of their staff who were working and from whom applications were received for compensation. All that the banks were particular was that the door for obtaining relief should not be kept indefinitely open. We agree that it should be so, as the enquiry before us has had sufficient publicity and all those who are really in need of relief have had time either to come before us or to make the necessary representations to the banks.

599. Out of the seven individuals who appeared before us in person, six belong to Bombay and the remaining one, Shri Hans Raj Vohra, came from Delhi and he made a plea that he should be allowed travelling allowance also. We, therefore, direct that in addition to compensation on the scale set out here below, Shri Hans Raj Vohra should also be entitled to get travelling allowance fixed at Rs. 150 from the Punjab National Bank Ltd.

600. The issue came up before the Sen Tribunal. We are in substantial agreement with their findings on the subject of compensation to refugee ex-employees. We direct as follows:—

- (1) The refugee workmen whose names have been set out in the schedule here below shall be paid within three months from publication of the award a cash compensation equal to six months' pay and allowances last drawn before they left Pakistan.
- (2) All other refugee workmen who had asked or applied for absorption in service or for re-employment within six months after 15th August 1947, and who did not refuse employment offered to them by the bank concerned and were not absorbed, shall also be paid the same amount of compensation specified in clause (1) *supra* within aforesaid period of three months provided they are not already dismissed for fraud or embezzlement.
- (3) They shall be paid the full amount of the bank's contribution to the provident fund where the rules so permit, and in other cases a like amount from other assets of the bank, as well as any security amount which any employee might have deposited with the bank, with interest at 4 per cent.
- (4) In case they or their heirs have been paid any gratuity and the amount of gratuity is less than the cash compensation we have awarded, then the balance only will be paid. No excess amount received is to be refunded.
- (5) No application from ex-employees need be considered which were not received by the banks before 30th November 1952.

601. We wish to add that these provisions are not to be taken as establishing a precedent. The situation created by the partition of the country was so exceptionally tragic in its consequences as regards these refugees that it has had to be viewed as a very special case.

SCHEDULE

Serial No.	Name of workmen	Name of bank
1	Shri Hans Raj Vohra	Punjab National Bank Ltd.
2	Shri Naraindas M. Bhatia	Imperial Bank of India.
3	Shri Ram Sarup Sagar	Central Bank of India Ltd.
4	Shri Bhagwan Das Narang	Central Bank of India Ltd.
5	Shri Tikandas P. Advani	Bank of India Ltd.
6	Shri S. H. Misra	Bank of India Ltd.
7	Shri Gurbux Mulchand Gehani	Bank of India Ltd.
8	Shri M. A. Shivani	Bank of India Ltd.
9	Shri Narain Dass Kapoor	Traders' Bank Ltd.
10	Shri J. G. Mirchandani	United Commercial Bank Ltd.
11	Shri Lillaram K. Kukreja	United Commercial Bank Ltd.
12	Shri L. W. Dewani	United Commercial Bank Ltd.
13	Shri K. H. Jlandani	United Commercial Bank Ltd.
14	Shri W. L. Shivancy	United Commercial Bank Ltd.
15	Shri L. H. Shrivdasani	United Commercial Bank Ltd.

CHAPTER XXXVIII

Item No. 8: Right to existing terms of service

602. Item 8 in Schedule II to the reference is as follows:—

"Right to existing terms of service where they are more liberal than those of the awards of this Tribunal."

603. The demand of the Unions affiliated to the All-India Bank Employees Association runs as follows: "No rights as on the 8th April 1951 of any employee shall be altered to the prejudice of the employee concerned." The demands by the various staff associations of the Imperial Bank of India employees are in the following terms: "The award on the above demands should not in any way prejudice the enjoyment by the employees of the existing rights and privileges in any respect whatsoever." The Bengal Circle Association's demand adds another clause to the following effect: "As regards monetary benefits enjoyed by the employees, in on case and at no stage of any employee's career should his basic pay and total emoluments be less than the totality of such benefits under the existing scheme, or rule or award."

604. The banks contend that this demand should not be granted. Alternatively, they contend if any option is to be given the workman should be required to select either the one or the other set of terms *in toto*.

605. At the outset there was a discussion regarding the point of time with reference to which the existing terms are to be recognized. Three different dates were suggested: (1) 9th April 1951 when the Supreme Court declared that the Sen Award was void. (2) 31st July 1950, the day when the Sen Award was given, and (3) 13th June 1949, the date of reference to the Sen Tribunal. At one stage, even 5th January 1952, the date of reference to this Tribunal was suggested. As a result of the discussion it was finally agreed to by all parties that the relevant date should be taken to be the one that we would fix for fitting the existing staff into the revised scales of pay. As the date that we are fixing for the latter purpose is 31st January 1950, "existing terms" must also be understood to mean the terms as they existed on 31st January 1950. The expression "existing terms" must also be taken to mean such terms as were actually enforced and applied on the relevant date aforesaid whether originally laid down by the banks themselves or imposed on them by awards, and should include also such modifications of the awards as the banks themselves might voluntarily have made later on. Whatever was imposed on banks compulsorily as a result of directions given by the Sen Tribunal either by any interim award or order before 31st July 1950 or by its final award should be ignored for this purpose. Subject to these observations, the terms as they existed as on 31st January 1950 are the "existing terms" with reference to which this issue must be considered.

606. The main objection raised by the banks is against the vague and nebulous character of the demand which does not give particulars of the several items of the existing terms of service with reference to which such a right is claimed by the workmen. It was argued that a reservation of the kind which the workmen want has always been rejected by industrial tribunals on the ground of vagueness and want of precision. It is only concrete demands that can be taken note of by this Tribunal. Several authorities were cited in support of this position which was claimed to be well-established in industrial awards. We are satisfied that this contention is right.

607. This however does not mean that with reference to particular items of dispute which have been referred to us for decision there should be no claim to pre-existing terms if they are more liberal than the provisions of our award. All that we can say is, that the existing practice in matters which are not covered by our award either by being granted or rejected must be deemed to be left unaffected without any decision by us on merits thereof. Our award should not be construed either as a direction to the banks to continue the practice or as a direction which seeks to interfere with their liberty to discontinue it if they are otherwise entitled to do so.

608. If any option is to be given at all, it should be left to the exercise of individual discretion of each workman concerned, and in our opinion the option should be exercised only once.

609. The next important question relates to the scope of this option i.e., whether it should be only with reference to what is called the totality of all the pre-existing terms and the totality of all the terms of our award. The workmen demand that distinctive groups of benefits should be recognized and the choice should be given with reference to each of such groups. The banks oppose the splitting up of the

totality of the terms of service. Several distinctive groups in relation to the monetary benefits, present and future, and service conditions and other amenities do exist. In our judgment such distinctive groups should be sorted out and a choice should be given with reference to the pre-existing terms and the terms of our award in relation to some at least of the groups but taking each of them as one unit. Even the Banks' Counsel had to admit that in evaluating the benefits of pre-existing terms and the terms of our award there are certain service conditions which cannot be valued in terms of money. We have carefully considered the matter of grouping and we are of the opinion that the grouping should be on the following lines:

- (1) Pay, dearness allowance, special allowance, house rent allowance, and officiating allowance.
- (2) Provident Fund.
- (3) Gratuity and Pension.
- (4) Bonus.
- (5) Leave Rules.
- (6) Working hours and overtime.
- (7) Conditions of service other than working hours and overtime, and
- (8) Amenities e.g. canteen, club-house payment of taxes etc.

We are of the opinion that no option should be given in respect of the following groups:—

- (1) Leave Rules.
- (2) Working hours and overtime.
- (3) Conditions of service other than working hours and overtime, and
- (4) Amenities, except as otherwise provided for in our award.

We may in particular make it clear that there will be no choice in respect of the following items viz., "other allowances", and "medical relief" except as otherwise provided for in our award. In these matters also the awarded terms will apply to all the workmen.

610. As regards bonus, in view of our conclusions on this subject the question of option does not arise. We are of opinion that the retiring benefits should not be taken as one whole group but should be split into (1) provident fund, and (2) gratuity and pension. As regards provident fund we have provided specifically in what cases and to what extent existing terms which are more favourable should be retained in preference to our award, and in what cases they may be reduced. No question of choice, other than what has been provided for, need therefore be considered. Similarly, as regards gratuity and pension we have provided for an option to the employees to choose between the actual pension which is awarded in any particular case under any of the existing schemes and gratuity on the scale awarded by us. No further option need be given. This leaves only the first group to be further considered viz., pay and allowances. We shall deal with the same a little later.

611. Another question to be considered is, which of the employees should be given the right to choose the existing terms where they are more liberal. Mr. Phadke argued that all employees including future entrants should have such option. We have no hesitation in rejecting this claim. There can be no question of existing terms with reference to them. This issue is really concerned with the question of what transitory arrangements should be made so as not to prejudicially affect the rights and privileges of the existing employees, at least with reference to the more important terms of service. In the first place, we are of opinion that all persons who have been entertained after 31st January 1950 should not be entitled to exercise this option. Only those who were in service on 31st January 1950 and still continue in service should have the benefit of such option as we are providing.

612. With reference to these persons the question now remains to be considered is, whether they should be given the benefit of not only the existing pay, dearness allowance, special, house rent and officiating allowances, but also what is usually described as 'prospects' in the general formula "Pay Allowances and Prospects." Where there is a defined time-scale with increments and higher and promotion grades as well, the question of prospects comes in. There can be no doubt however that the existing pay and allowances aforesaid as on 31st January 1950 should not be reduced. The employees raise disputes and seek adjudication only with a view to obtaining more benefits. It is not our intention that our award should in any way diminish their existing pay and allowances as aforesaid. To the extent to which therefore the aggregate of pay and aforesaid allowances awarded falls short of such aggregate of pay and allowances aforesaid as on 31st January 1950, the

difference should be kept up, and should be continued as a temporary adjustment allowance until the same is absorbed by further annual increments in the scale awarded. This we are providing for in our scheme of adjustment for fitting in the employees into the revised scales of pay under another issue. The further question is, whether over and above this, such employees should be allowed to have the benefit of the previous time-scale and allowances and higher grades if any, if in their opinion, taken as a whole, they are superior to or more liberal than the time-scale of pay and allowances etc. which we are prescribing. In other words, how far should they be guaranteed their future "prospects" under the existing scales. The Sen Tribunal in paragraph 363 of their award directed as follows: "As regards monetary benefits enjoyed by the employees we feel that in no case and at no stage of an employee's career should his total emoluments be less than the totality of such benefits under the existing scheme, rules or awards". There is a similar demand before us by the Association of the Imperial Bank of India employees of the Bengal Circle. The banks object to this on the ground that an adjudication on an All India basis in the interests of uniformity, should not perpetuate a machinery for having two parallel sets of employees with different pay scales and allowances and varying in different banks as well which would operate throughout their long career of service extending over several years. Such a direction creates complications unnecessarily and also involves maintenance of accounts to an embarrassing extent. The workmen on the other hand contend that no adjudication by an industrial tribunal in a dispute arising out of workmen's demands should really result in a prejudicial alteration of the rights and privileges of workmen already existing prior to the adjudication, and this view is not only generally accepted but is really unchallengeable. The real controversy is whether the expression "existing terms" should be understood to cover the existing chances of future prospects as well.

613. The reasonable expectation of an employee with reference to his future prospects should no doubt be taken into consideration but it will not be right to put them into the category of vested indefeasible rights which should be guaranteed in all cases of alteration of service conditions inclusive of changes in wage structure. To what extent they should be recognized and provided for is a difficult question. It is not, however, necessary to pursue the matter more fully for our present purposes. Firstly, the real comparison of such prospects in the pre-existing i.e. pre-Sen scales with similar prospects under our award is not possible, because the groups for comparison contain a variable element, viz., dearness allowance. By its very nature dearness allowance is intended to be reviewed at more frequent intervals than basic pay. It should not be assumed that dearness allowance once fixed can only be increased but never reduced in later years. A comparison, therefore, with respect to future prospects cannot take in such a variable element if that is one of the units in the aggregates to be compared. Secondly, even if we restrict our attention to the other component parts only, namely, basic pay, special allowances and house rent allowance, it will be found that the employees under our new scales of pay will, in a large majority of cases, have more favourable prospects under our award than under pre-Sen scales, particularly as the option, if at all, should be only with respect to the totality of the previous scales in their fullness including their express and implied efficiency bars and different grades. It is possible that there may be some cases where there is scope for choice in favour of old scales. A good many of them will, however, be more or less border line cases where it cannot be definitely said that the new scales are less advantageous, if at all, to any appreciable extent. Thirdly, some of the pre-existing scales had no classification of areas such as we have provided, particularly so in the case of offices of banks governed by the Gupta Award and the B. B. Singh Award in U.P. These covered a large number of bank employees. If an option is given, bank employees in the same bank and even in the same place may get different pay and allowances for the same kind of work. This situation which will have to continue for several years cannot but cause invidious distinctions and bitterness amongst the workmen. Such a course is not desirable. Fourthly, an option if given will largely defeat the very purpose for which small banks have been further divided into two classes of 'C' and 'D' groups. Fifthly, the pre-existing scales are so different and varying in different banks and even in branches of the same bank that an option will perpetuate an unnecessary and undesirable diversity for a very long time. One of the objects of the All India character of this enquiry is to introduce fairly uniform scales of pay and allowances with such minimum variations as are absolutely requisite. This cannot be achieved with different pre-existing scales perpetuated to a large extent and for many years. Sixthly, in some cases even the pre-existing scales in the same bank are such that the employees get different rates according to different scales because of the exercise of similar option previously given to them when either previous awards came into force or when banks themselves revised the previous scales. Should future awards also adopt the same principle of giving an option, the position will become more and more complicated and inequalities in pay for the same kind of work will become more intensified even in the same unit of industry.

Lastly, it may be noted that the basic pay which we are fixing is, speaking generally, higher than the basic pay in pre-existing scales whether according to the Divatia Award or the Gupta Award or B. B. Singh Award or S. K. Sen Award. The maxima in our scales are generally higher than in the previous scales although it is true that in some cases the span is a little less than our span of 25 years. Even so, it will be found that for the generality of bank employees, the prospects under our new scales are better than under the old scales. On behalf of the workmen Mr. Chari conceded, more than once, during his arguments, the general principle that where there is a general improvement of conditions for the generality of workmen some sacrifice by the remaining few cannot be fairly objected to. This is inevitable where in the interest of the trade union movement an adjudication for the whole industry is sought for. The trade union movement itself accepts that principle mainly in the interest of solidarity of workmen as a whole. For these and similar reasons we have come to the conclusion that we need not allow an option to a workman to choose the pre-existing scales of pay and allowances in so far as they continue to apply to him for his future service in the bank. As already stated we have taken care to see that the totality of this pre-existing emoluments is not, in any way, reduced.

CHAPTER XXXIX

Item No. 83 : Works Committee

614. Item 33 in schedule II to the reference reads as follows:—

“Works Committees. Should they be established or not?”

615. All the parties to the dispute stated before us that no Works Committees should be established. As there are no existing disputes about this matter, we are of opinion that no direction or award should be given by us in relation to this question. We have not, however, examined the question on its own merits, as it involves a question of policy and expediency. Shri Tannan is of opinion that such committees can function usefully but as neither side favours the idea no directions need be given.

CHAPTER XL

Compromise Awards, Banks Working under Schemes of Arrangement etc.

SECTION 1.—Compromise Awards.

616. During the course of the proceedings before us there were certain settlements effected between some of the banks and their workmen in relation to certain items of dispute. We now pass awards in terms of such settlements as have been arrived at. To the extent to which these consent awards apply, our general award would be inapplicable.

617. The Union Bank of India Ltd. and its workmen at its head office and at all its branches settled all the disputes between them. Compromise agreements signed by the parties were filed before us. An application was made by the Bank to pass an award in terms of such settlements. After notice to the workmen we decided to accept those settlements and passed an order to that effect in terms of those settlements so far as that Bank and its workmen were concerned.

618. There was also a settlement between the Grindlays Bank Ltd. and its workmen in the Shipping and Clearing Department in Bombay City in relation to working hours and payment of overtime work. The compromise agreement was filed before us (See Appendix V). We pass an award accordingly in terms thereof so far as this dispute is concerned and so far as it governs the workmen who are parties to that settlement. The employees of the Shipping and Clearing Department of the Bank in the Calcutta branch however did not agree to this arrangement and were not parties to this compromise. They will, therefore, be governed only by the terms of our award.

SECTION II.—Banks working under schemes of arrangement

619. We shall now consider the position of the banks which are shown in the reference to us as “Banks working under schemes of arrangement etc.” There are 7 such scheduled banks and 23 non-scheduled banks set out in the reference. We have not before us the full details relating to the schemes of arrangement of

all these banks. Some of these banks are members of an association called "Displaced Banks Association". On behalf of those members Mr. Manoharlal Bagai argued that these banks must be exempted from our award for a period of five years. The following banks were stated to be members of that Association:—

1. New Bank of India Ltd.
2. Traders Bank Ltd.
3. Lakshmi Commercial Bank Ltd.
4. Prabhat Bank Ltd.
5. Oriental Bank of Commerce Ltd.
6. First National Bank Ltd.
7. Punjab & Kashmir Bank Ltd., and
8. Simla Banking & Industrial Co. Ltd.

620. Mr. Manoharlal Bagai argued before us that the Prabhat Bank Ltd. is working only in one State, and the Tribunal can have therefore no jurisdiction. Though that may be the present position, on 5th January 1952, the date of reference, it had branches in more than one State. The jurisdiction of this Tribunal therefore remains unousted. He also urged that out of the eight banks, seven were working under schemes sanctioned by the Punjab High Court, while the Oriental Bank of Commerce Ltd. had a scheme of its own to which the shareholders had agreed. His main points were that prior to partition these banks were functioning normally in Pakistan, but due to partition they lost heavily. Depositors became panicky and three banks went into moratorium in 1947, viz., Lakshmi Bank Ltd., Traders Bank Ltd., and New Bank of India Ltd. Now seven of them have subsequently been working under schemes of arrangement. These schemes, he stated, would normally have been completed by the end of December 1952. But owing to several circumstances that could not be done, and at present they required some further extension.

621. Generally speaking, the schemes are on the following lines:— The assets in Pakistan less a certain amount, usually Rs. 5 lakhs, are treated as a Closed Fund. With this nucleus of Rs. 5 lakhs and future deposits fresh banking business is carried on. The depositors are to be paid at certain reduced percentages from the assets of the Closed Fund as and when they are being realized. The new banking business is to proceed normally. The expenses are to be apportioned in certain proportions between the Closed Fund and the funds of the new business. The Closed Fund is to serve as the security for the discharge of the bank's liabilities to the old depositors.

622. From time to time these schemes seem to have been allowed to be revised by the High Court. Mr. Bagai stated that generally these banks worked at a loss in the years 1949, 1950 and 1951. The legislation affecting displaced banks was also claimed to have stood in the way of successful implementation of the schemes by these banks. One of such stringent Acts is the Displaced Persons Debt Adjustment Act, 1951. Banking Companies were not included among the displaced persons. According to him, this Act has prejudicially affected these banks and placed several obstacles in the way of realizing their assets from their debtors. The facilities given to displaced persons are such that the banks are unable to get at their assets to any appreciable extent in satisfaction of the debts due to the banks. Scaling down of debts is provided for; residential houses are not attachable; forfeited shares for non-payment of call money have to be refunded; and security by way of pledge of movables is practically wiped out. These are some of the difficulties which Mr. Manoharlal Bagai enumerated as standing in the way of these banks. His suggestion was that these banks should not merely be placed in the lowest group as the Sen Award did, but they should be completely exempted from the scope of the Award for a period of 5 years. With reference to the Oriental Bank of Commerce Ltd. he stated that an application for reduction of capital was pending in the Court. It would appear that subsequently it has been sanctioned. Some of the balance-sheets of these banks have also been sent to us now.

623. Mr. Chari while admitting that these banks are in difficulties and that some concessions would have to be given to them urged that the concessions given by the Sen Award were sufficient viz., the application of the pay scales of the lowest group of banks and the freedom from all obligations to provide other amenities. We are of opinion that these banks which are working under schemes of arrangement must be classified for the time being as in D group, and only the scales of pay fixed for this group should be applicable to these banks for some time at least.

624. We direct that so far as the banking business carried on by such banks is concerned those of their employees who are engaged for the purpose of such business shall be entitled to the benefit of only the scales of pay prescribed for D class banks in respect of new entrants till the end of December 1954. On the expiry of such period however our award (if it is in force then) should apply to these banks irrespective of the concessions mentioned above. These general directions would apply to all banks which are working under schemes of arrangement, except in so far as there may be any statutory provisions contrary to our above directions.

625. There remain three other classes of banks not appearing to be working normally and described thus in the order of reference, "Suspended payment", "Action under Section 247 of the Indian Companies Act being taken," and "present position not known". Our award will apply to such of those banks as are still transacting the business of banking. There is yet another bank which appears in the reference as "The Bank is in liquidation in Pakistan". We give no directions regarding the same.

SECTION III—United Bank of India Ltd.

626. The United Bank of India Ltd. has pleaded before us that it should be put in the lowest group of banks. It was urged that the amalgamation which resulted in this Bank was one forced by necessity and that the average of the deposits of the four amalgamating units was somewhere about 10 crores only. The deposits are stated to have fallen since amalgamation, and after the publication of the annual accounts there has been a further fall, though only to some extent. It was stated that the Bank would not like to effect retrenchment except as a last resort. It was urged that the dividends were reduced since the amalgamation and the officers' salaries considerably cut down. Special concessions were therefore claimed for this Bank. We have already held that it should be put in B class till the end of December 1954. We do not think we ourselves can give any further concession to this Bank. It may be that the implementation of our award might disclose the need for reduction of establishment charges. If a necessity for it is made out after the publication of our award and in the light of the pay scales laid down therein, it should be a matter for arrangement between the Bank and its staff as a whole as to how any retrenchment, if it is needed, has to be carried out. Then resort must be had either to collective bargaining or to friendly settlement or, if need be, to a further reference by Government specially limited to this Bank. We have at present no definite materials to envisage what the situation would be, and we do not think it necessary or advisable to provide for any further directions than what we have already provided for.

CHAPTER XLI

Our Award etc.

SECTION I—Operation of the Award

627. We direct that the several directions in our award should come into operation with effect from 1st April, 1953, except where we have provided otherwise with reference to any particular matter. Wherever any general directions in this award are found to conflict with any specific subject matter of dispute, the latter shall prevail over the former. As regards the date from which the new scales of pay, dearness allowance, special allowances etc. shall come into force, we fix 1st April, 1953 as the date. We are aware that section 7, sub-section (2) of the Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 empowers this Tribunal to make, if necessary, retrospective adjustments in relation to the scales of pay and rates of allowances specified therein. It is now very nearly two years since these scales of pay have been in force. It will be a hardship to call upon the employees to make any refund if that should be the result of giving retrospective effect. Complaints were made before us that in some cases the annual increments properly due have been withheld by some banks and even dearness allowance was not calculated at the proper rate under the terms of the Sen Award. Further, there were also demands before us that for overtime work done during portions of this period, banks should be directed to make some payments. It was urged that in some cases even the directions in our

interim award on this matter were not properly interpreted. We have not investigated these matters. We consider that in the interests of harmony and peace it is desirable for the banks not to insist on any refund and for workmen not to ask for further payment with reference to these matters. On a very broad view of the matter it seems to be more satisfactory to let bygones be bygones and to direct that there should be neither retrospective readjustments of pay and/or allowances already paid nor any further claim for more than what has been given already. We direct accordingly that the new pay scale and allowances which we have fixed should come into operation from 1st April 1953. Any claim for either refund or excess payment for any period prior to 1st April, 1953 should not be entertained. We direct accordingly.

SECTION II—Costs

628. We have now to deal with the question of costs of these proceedings. During the enquiry we passed some orders regarding the payment of travelling allowances and halting allowances to the representatives of workmen who attended the general hearing at Bombay. Those interim orders are hereby confirmed.

629. Mr. Phadke towards the end of his arguments submitted that suitable provision should be made with reference to costs of these proceedings. The Industrial Disputes Act, 1947—Section 11, sub-section (7)—makes provision for directions being given in relation to costs. The general rule is that costs are not given in proceedings before Industrial Tribunals. In our opinion, there are however special reasons why we should give directions regarding costs. The enquiry before us has been a prolonged one lasting for several months and both parties appeared by several Counsel. The banks engaged a number of legal practitioners. They do not ask for costs. The workmen mainly appeared through four organisations and were represented by Mr. A. S. R. Chari, Mr. N. V. Phadke and Mr. C. L. Duthia. Ours is an enquiry for the second time because the Sen Award which was given as a result of a previous enquiry was declared void. Considerable expense must have been incurred by the unions concerned with respect to payment for Counsel who appeared for them. We think that in the special circumstances of this enquiry before us it is but right and proper that the banks should be directed to pay some amount towards the fees payable to Counsel who appeared on behalf of the workers. We accordingly direct that a sum of Rs. 4,500 be paid as follows:—

- (a) Rs. 2,500 to the All India Banks Employees Association to be paid by the Central Bank of India Ltd., Bank of Baroda Ltd., United Commercial Bank Ltd., Punjab National Bank Ltd. and Bank of India Ltd.
- (b) Rs. 250 to each of the four Imperial Bank Indian Staff Associations to be paid by the Imperial Bank of India.
- (c) Rs. 1,000 to the Unions of the workmen of the Exchange Bank's represented by Mr. Phadke to be paid by the Chartered Bank of India, Australia and China, Grindlays Bank Ltd., Lloyds Bank Ltd., National Bank of India Ltd. and the National City Bank of New York.

SECTION III—Our Award

630. In the foregoing chapters we have given our directions in respect of the various items of disputes referred to us for adjudication. Our award is accordingly in terms of such directions. Wherever we have merely recommended, such recommendations do not form part of our award in the strict sense of the term. The object of industrial settlement is to promote industrial peace. An award as the result of a compulsory adjudication is fruitful only if it is such as is acceptable to and accepted by the parties to the dispute as a reasonably just solution of the difficulties in the industry. Our award will have to be taken as a whole and judged in this light.

631. It is just as well that we make clear that the principles which we have laid down in our award are only for disputes in the banking industry. Banking, as already pointed out, is more akin to a public utility service than to an ordinary commercial undertaking of a profit-making character. To some extent banking need not always be confined to the private sector of the industry only. There may be circumstances where it is partly, if not wholly, undertaken as a part of the public sector. In India, at present, except for the Reserve Bank of India which

has recently been nationalized, it entirely belongs to the private sector. In the immediate future there is no question of its being otherwise. Nonetheless, public service which is a characteristic feature of the banking industry as distinct from ordinary commercial profit-making concerns, cannot be ignored. Further, the reference to us takes in a very large section of the units engaged in the industry all over the country. This Tribunal itself is an All-India Tribunal dealing with the major and the more important part of the industry as a whole and on an All-India basis. In these circumstances it is inevitable that there should have been an attempt at a standardised and uniform wage structure and service conditions for workmen in the industry. The result has been that there is a certain amount of levelling down and levelling up in the process. We are not unaware that conditions differ in various parts of the country; particularly the pay scales and emoluments in certain places in Part 'B' States have been generally lower than those in Part 'A' States. Nevertheless, we thought it fit not to have too many classifications. We have gone as far as we can possibly go to reconcile the need for uniformity with a recognition of differing conditions. The pattern of our award may not necessarily be applicable to other industries and should not necessarily be taken as indicating the proper pattern for settlement of industrial disputes in relation to other industries of different types and confined to narrow regional areas.

632. Promotion of social justice is undoubtedly one of the most important principles in the settlement of genuine industrial disputes. This involves the recognition of the workers' right to a minimum subsistence wage and progressive improvement in working conditions in the years to come. At the same time in an underdeveloped country like ours where there is not much scope for high productivity and full employment other vital considerations such as the industry's capacity to pay should also be borne in mind. We have tried in this award of ours to do the just thing by the industry as well as by the employees. We trust that as a result there will be industrial peace in this vital industry, at least for some years to come.

633. Before we close our award, we wish to acknowledge the help we received in the course of our work. First and foremost, we must express our indebtedness to the Sen Award which has dealt with the questions before us with a wealth of material and reasoning, which were very useful to us. In portions of our award we have practically adopted its conclusions and its language as well. Next, we wish to express our appreciation of the great help which we received from Counsel on behalf of both the parties as well as the chief representatives of the banks and of the employees who appeared before us. We also desire to record our appreciation of the services rendered by our Secretary, Mr. K. N. Mehta, an officer of the Reserve Bank of India lent to us on deputation and our Assistant Secretary, Mr. G. Venkatasubramaniam, of the Madras Judicial Service, similarly lent to us on deputation. In this connection we must also make mention of the help which we have received from our stenographers Mr. W. Lasrado from the Reserve Bank of India and Mr. T. V. Subramaniam from the Madras Subordinate Judicial Service.

(Sd.) S. PANCHAPAGESA SASTRY, *Chairman*.
5-3-53.

(Sd.) M. L. TANNAN, *Member*.
*20-3-53.

(Sd.) V. L. D'SOUZA, *Member*.
5-3-53.

BOMBAY.

Subject to minutes of Dissent on Chapter IV to IX, XIII to XV, XVII to XIX, XXIX, XXX, XXXVI and XXXVIII.

(Sd.) M. L. TANNAN,

CHAPTER XLII

SECTION I—The basic approach

634. The genesis of the present reference to us in regard to claims of bank employees is to be traced, as, indeed, in all cases of industrial strife: to a feeling of discontent among the employees, generated, in a large measure, by the treatment they receive. How much one wishes that the discontent was not there, nor any strife and harmonious relations prevailed between management and staff, to the advantage of the industry and ultimately to that of the community. Nor is this wishful thinking or as Utopian as it looks, particularly in the context of the banking industry. Bank employees hail generally from the middle class, and are

certainly more intelligent and capable of taking a larger view than ordinary labour, while bank management is certainly more enlightened than the ordinary type of employer. Thus, banking industry cannot only put its house in order, but set an example to others in regard to labour-management relations. This reminds me of the happy relations that exist between bank employees and the management in the U.S.A. During one of my visits, in recent years, to the U.S.A. I had, with the help of letters of introduction given to me by Sir Chintaman Deshmukh, the then Governor of the Reserve Bank of India, occasion to discuss this problem with some of the leading bankers in that country. I was agreeably surprised that bank employees in the States have not to look to their unions for redress of their grievances. Indeed, there are hardly any unions of bank employees in the U.S.A. and they need not be. This welcome state of affairs is mainly the result of the sympathetic attitude the management displays towards the men. The bank management in the U.S.A. has imagination enough to appreciate what a contented and well-provided for staff means. Among the various facilities, which bank employees enjoy in the United States are included free services of doctors and dentists, hospital accommodation, and provision for canteen and rest rooms, and stores where they can purchase at reasonable prices, some of the necessities of life, etc. And the management is amply rewarded for its attention to the comforts of those committed to its charge. For example, employees willingly give of their best as will be seen from the fact that, although they work only for five days in a week, they put in 40 hours of service. This particular illustration shows how responsibilities and rights go together. Bank employees there have two holidays in a week, but, at the same time, they work for larger number of hours than here. In England, also, although unions of bank employees exist, they are, so far as I know, non-militant being mainly interested in promoting welfare activities. Here is something over which bank managements as well as bank employees in India might seriously ponder, and see whether it is not worth their while to foster cordial relations and identity of interests between themselves and their employees. I have dilated on this American example at some length because, I do believe that the middle class employees in India in general, and the subordinate and clerical staff in banks in particular, have not always had their due, and, therefore, deserve certainly a better treatment than they have been accorded in the past. If only the management in India was gifted with the same perspective and vision, our bank employees would, as in the States, certainly respond. In the result, banks will have a clerical cadre which will be contented, and, therefore, loyal and efficient. Even under the present conditions, managements can do quite a lot for their employees and secure their goodwill. In this connection, it may not be quite out of place to refer to a personal matter. Soon after I took charge of one of the leading Indian Joint Stock Banks, I found that its Head Office staff at Lahore had to go out during more or less the hottest part of the day in summer for a cold drink such as a glass of buttermilk, and similarly during very cold parts of the day during winter months for a cup of hot tea or milk. Not only they had to expose themselves to rough weather conditions, but also to waste anything between $\frac{1}{2}$ to $\frac{3}{4}$ of an hour of their working time per day. I, therefore, proposed to the Board of Directors of the Bank to permit me to supply the staff with the necessary drinks at their seats at a comparatively small expense to the bank. I had, however, to convince the authorities how advantageous it was both to the staff and the Bank, before they finally consented to it. Indeed, what outlays or expenditure such a sympathetic policy may call for will yield good dividends in the long run, to the ultimate advantage of the industry, as in the States. Then there will be no need for maintaining healthy employee-employer relations, where it, should be.

635. The authorities in India are also laying growing emphasis on the need for mutual settlement of disputes either through voluntary conciliation or arbitration I should think this is a step in the right direction, as it places the responsibility for maintaining healthy employee-employer relations, where it, should be.

636. In view of what I have said above, it would be clear that I recognize, as much as my colleagues do, the need for a fair deal for bank employees. I am certainly one with them in appreciating the desirability of building up a cadre of bank service, particularly in this sector of economy where traditions of integrity coupled with intelligent, efficient and loyal service, which contentment, self-respect and security for the future can alone build up. The need for a sympathetic approach is all the more great, in view of the vast field, both in urban and rural areas, particularly the latter, which banking has yet to tap, and in view of the urgency of developing banking habit among people which is only a stage advanced, if at all, from infancy. Mobilisation of capital, so essential to our economic betterment and on which the Five Year Plan has laid so much emphasis, depends, to a large extent, on an efficient, devoted and honest bank service. There cannot be, therefore, two opinions in giving its due to organized bank labour which is

also comparatively more intelligent, compact and can think, judge, and act for itself in a manner, which labour, as it is ordinarily understood, cannot. Another and perhaps the most important consideration in judging the claims of bank men is that banking, in a money economy, touches and affects the development of national economy at all strategic points. In this sense, it may be considered as an essential service, and any sudden upheaval in, or disorganization of it, which discontent among the staff may produce, should be prevented by all judicious means in the national interests.

637. Further, developments during the war and post-war periods in this country as well as abroad indicate the need for a sympathetic approach, both on grounds of humanity as well as justice. The war has affected the lower middle classes, particularly, and inflation, which has been now with us for over a decade, has badly hit them. Also, conditions of service are no longer what they were earlier, when the necessary human touch, provided by sympathetic managements, which played a parental role towards their men, went a long way in creating and maintaining an atmosphere of peace and harmony. As banking institutions grow in size, there cannot always be naturally the personal contact between the management and employees, which the latter would certainly value, as they did earlier. I have referred above to what bank managements can do to secure the good will of their employees. Further, there is the urge, which is not confined to bank staff or to labour in India, to improve one's lot. Social justice to which the Five Year Plan draws particular attention has made huge strides during the war and post-war periods, and, in a Welfare State like ours, it is but proper that labour, either in banks or outside, should come into its own.

638. If I, therefore, dissent, in a measure, from my colleagues, it is not because I fail to realise the importance of the problem committed to us, and on which we are called upon to pass our verdict. There are, however, certain more compelling considerations, which one may not lose sight of. We cannot afford to review bank labour in isolation. We need to take into account the repercussions our Award will have on the conditions of service in similar callings, both in private and public sectors. Also, we need to take a long term view in the context of the requirements, not only of the banking system, but of the economy as a whole. We cannot lose sight of an important factor, namely, the possible effect of what we do will have on the cost of bank credit, which, since the new monetary policy of November 1951, has got dearer in India, generally in common with world trends. Finally, and this is immediately pertinent, we cannot dissociate the Award from banks, capacity to bear the load. Here I view banks' capacity in a wider sense than do my colleagues.

639. Furthermore, the repercussions, on dividends of banks, of the Tribunal's Award have also to be taken into account not only in the interests of shareholders, but, what is more important, from the point of view of the imperative need of capital formation and the need for a growing volume of investment, particularly at the present juncture, when the successful implementation of the Five Year Plan depends on the resources available to the nation and the sustained rise in the tempo of investment. Also, considerations of justice as well as humanity demand that we should be fair to shareholders of banks, most of whom probably belong to the middle class and amongst whom there are actually many orphans, widows and pensioners, who are dependent for their livelihood at least partially if not wholly, upon incomes from bank dividends. The shareholders of banks, like any other type of holders of equity shares, are entitled to a fair share of profits of banks. The following extract from the "COMMERCE" of February 28, 1953 will, I hope, be found interesting:—

"A notable feature of this year's annual meetings of British banks—a feature common to all of them—has been the demand for a higher rate of dividend. This demand is the result of the departure from the traditional conservative dividend policy of the banks by the National Provincial Bank, a member of the Big Five, which increased its dividend from 15 per cent to 16 per cent after an interval of 20 years. Shareholders of this Bank expressed their appreciation of payment of a higher dividend. At the meetings of other banks, the shareholders questioned the propriety of sticking to the same level of dividends—Barclays at 14 per cent, Lloyds at 12 per cent, Midland at 16 per cent, and Westminster at 18 per cent. Sir John Barlow, M.P., a shareholder of Barclays Bank, for instance, was extremely critical of the Bank's dividend policy. He said that many people had held their shares over a long period and had received the same nominal return in money of diminishing value. The pound now had a purchasing value of only 45 per cent, as compared with 1938, and

taxation was higher. He argued that, although the possibility of nationalisation of banks was not a political issue at the moment, it might become so in future, when it might be too late to take necessary action. He warned: "I believe that the Board is assuming great and serious responsibilities in withholding what some of us consider reasonable dividends".

That sums up the case, neatly enough, for a higher dividend rate. Although the case was not as well expounded at other meetings of the banks, the demand for a higher dividend was made by the shareholders. In this country too, the banks follow a conservative dividend policy, which reflects the British impact on the Indian banking system. There is, of course, something to be said for a conservative dividend policy. The banks are primarily credit institutions. They must guard themselves against an erratic dividend policy which might harm their reputation. In the minds of depositors as well as investors, a bank denotes some stability, some stolidity, some conservatism, which are not generally associated with other institutions. A lapse from these qualities, which might be excusable in others, would be a grave fault in a bank. Replying to suggestions for a higher dividend distribution, Lord Harlech, Chairman of the Midland Bank, said: "Bank shares have come to be regarded by trustees and public bodies as almost akin to Gilt-edged securities. There is a good deal to be said for stability of dividend through good years and bad. Accordingly, your Directors would not feel justified in raising the rate unless they were confident that any higher dividend could be assuredly maintained over years to come." This seems to sum up the case for a conservative dividend policy."

This aspect of the case derives additional weight from the fact that an undue lowering of income out of dividends might result in a flight of capital from the banking industry. If this happened, it would be most deplorable in view of the fact that all our efforts, official as well as non-official, are currently devoted to stimulate the pace of expansion of banking. As a matter of fact, banks have been loud in their complaints against the crippling effects, as they say, of the Sen Award of 1950. While we need not necessarily agree with them, one has to take note of certain recent untoward developments, particularly in the sphere of bank branches and offices. Served not too generously by banks as we are, one would look for an expansion of their business by banks in new areas, and the opening of new offices. There was a sustained progress in this direction up to 1945 after which there has been a set back. This is attributed to the restrictions that have been imposed on branch expansion since 1946 and more recently to higher operating costs resulting from the Sen Award. These developments ought to cause us concern. There has been a fall, also lately, in the number of bank offices, and the fact is known to me and my colleagues who have had to deal with applications from banks requesting permission to close down some of their branches under the provisions of the Industrial Disputes Act, 1947. What however, I apprehend more is that, once the work of this Tribunal comes to an end, many more branches are likely to be closed, as then there will be no need for banks to apply for such permission and they will be free to act in a manner that suited their individual interests best.

640. Precisely because banking partakes of the nature of an essential service, which is organic to the economy, and because it must play an increasingly significant role in its development in the years to come, it is in a peculiar position more akin to public utility services or Government services. Viewed thus, bank service differs, in some essentials at least, from manufacturing, business or trading services. A special responsibility, I believe, therefore, rests on us. We must realise that whatever Award we give will have repercussions on conditions of employment in Government departments and semi-government institutions, where the class of people employed hail from the same section of the society, that is, the middle class. Our decision may also affect public utility concerns. The emoluments of bank men must bear, therefore, in my opinion, a close relation to those of their counterparts in public or semi-public services. As will be seen from Chapter XII of our Award, the emoluments of the latter, as they stand at present, are much lower than what my colleagues propose in their Award for bank men, more particularly so if we take into account additional monetary and other benefits, awarded to bank employees by us, such as bonus; two compulsory retirement benefits, viz. (i) provident fund and (ii) gratuity; shorter hours of work; very generous rates for overtime; liberal leave rules, etc. In addition, bank employees are to have advantage of medical benefits, including provision in respect of cost of medicines, no doubt within certain limits etc. over and above free medical advice to be provided by banks.

641. Reverting to conditions of service of Government employees, it may be assumed that these are reasonably satisfactory. In a democratic set up such as ours, Government dare not employ sweated labour or exploit their employees. It will be resented, and means soon found to set things right. Such a state of affairs will be inconsistent with the ideal of a Welfare State. We have, therefore, to be very circumspect in the terms of our Award, because, as pointed out above, there is a definite affinity between bank and public services. Indeed, the National Exchequer, apart from the possible dissatisfaction in Government or semi-Government services, which our Award might possibly bring about, will be put to a substantial increase in expenditure if employees in public services were to be upgraded so as to bring them on to a par, with the terms of our Award. This, Government can hardly afford, particularly at the present juncture when the need of the day is economy. To realise what repercussions our Award might have on public services, one need only note the fact that, as against about 51,500 employees in banks, there are lakhs of employees in the clerical and subordinate services of the Central Government, State Governments, Municipal Corporations, etc. I am not convinced that scales of salaries and other monetary benefits provided for their employees by Government are such as will show that they are not on the basis of subsistence level, more particularly in these days when our country is no longer under the domination of a foreign rule and we have governments, both in the States as well as at the Centre, consisting of elected representatives of the people. As I have shown above, a comparison will indicate that the scales of salaries and monetary and other benefits enjoyed by bank employees are much better than those enjoyed by employees of Government and semi-government institutions. The real measure of advantages enjoyed by bank clerks will become further clear, if it is remembered that we do not propose to impose even such minimum academic qualifications as are laid down for Government and semi-government services.

642. Also, it is a well known principle of Industrial Law that in fixing scales of salaries and other monetary benefits for employees of a concern, due regard should be had for scales of salaries etc. prevailing in comparable callings. Information in this connection available to us pertains mostly to flourishing concerns. It would be found that the emoluments of employees in most successful banks compare favourably with those of the employees in these concerns. Also, for obvious reasons, we should not be misled, by the remuneration, paid either voluntarily or as a result of awards for some world-wide combines and other big foreign companies which are making huge profits into instituting comparisons which are unrealistic. It will be more pertinent for our purposes to refer to conditions of service in some very prominent and successful Indian concerns, both in the financial and industrial spheres, and see how these compare with what we propose for bank employees. In this connection, I invite attention to the following statement giving the scales of pay fixed as a result of awards both for the head office and for branch offices of the Oriental Life Assurance Co. Ltd. and the Hindustan Co-operative Insurance Co. Ltd., both of which have a net-work of offices all over India, as is the case with big banks.

Scales of Pay

Oriental Government Security Life Assurance Co. Ltd., Bombay.

Head Office : Rs. 75-5-105—E.B.—6-185-7-170-E.B.—8-210.

Branches : Rs. 56-4-80-E.B.-5-115-6-145-E.B.-7-180.

Hindustan Co-operative Insurance Society Ltd. Calcutta.

Head Office : Rs. 70-5-100-E.B.-6-160-E.B.—6-202.

Branches : Rs. 60-5-100-E.B.-6-160-E.B.-6-180

The terms of service and the total emoluments of bank men, as suggested in our Award, are more favourable than those of the employees of both these companies. Also, the starting salaries and scales in respect of the latter are lower than for bank men in our Award. It may be of interest to know that the Oriental Life Assurance Co. Ltd., for whose shares of the face value of Rs. 200 the shareholders have paid only Rs. 50 per share while the balance of Rs. 150 has been paid out of its surplus profits, has been paying a dividend of not less than Rs. 125 annually for many years past, and which is now proposed to be raised to Rs. 170 per share. The market value of its shares is over Rs. 6,000. As against this, the market value of the fully paid-up shares of Rs. 500 each of the Imperial Bank of India is little over Rs. 2,000 while the dividend has been 16 per cent. for last few years.

643. I have referred to the Oriental Life Assurance Co. Ltd. in some detail, as insurance companies, in general, are bound to be affected by our Award. The similarity between banks and insurance companies will be at once recognized. The class of people employed in both have more or less the same mental calibre,

hall from the same class of society and play more or less the same role in the economic structure. According to my colleagues' Award, bank men will receive higher initial start than do similar classes of people employed in the three major insurance companies in India, viz. (1) The Oriental Life Assurance Co. Ltd., (2) The New India Assurance Co. Ltd., and (3) The Hindustan Co-operative Insurance Co. Ltd. The possibility, therefore, of our Award affecting insurance services and of insurance men asking for competitive or higher wages, cannot be ruled out. There is also bound to be a demand for the upgrading of emoluments and further liberalization of terms of service of employees of the Reserve Bank of India, which must need be related to those of the other banks. Similarly, employees of commercial and industrial concerns may ask for higher emoluments. These possible repercussions of the Tribunal's Award and the apprehensions regarding spilling of wages around are sufficient to give an idea of the magnitude of the additional load which the financial structure of the country will have to bear. Hence my plea for moderation.

644. Further, my study and experience of banks extending over a number of years and their working in this country as well as abroad leads me to the conclusion that the Award as proposed by my colleagues needs to be moderated. The emoluments in all grades of services, either public or private, should bear a definite relation to the nation's capacity to pay, as judged from the national income, or the productive capacity of a country. After all, wealth has to be produced before it can be distributed, and rewards for services should bear not only a relation to earnings in the particular sector, but also to the national pool. The economy of a country is one integrated whole, and a lopsided development in one of its sectors is bound to similarly unbalance the other and related sectors. India's national income is admittedly very much lower than that of the United Kingdom, while the services rendered by bank labour in the U.K. are certainly not less efficient than those of their Indian conferees. If anything, the evidence is in favour of the former, judging from the fact that the working hours of employees in the U.K. (as in the United States) are longer than what we have laid down in our Award. And yet in the U.K. not all the advantages and benefits, which we now propose to extend to bank men in India, are available.

645. Perhaps, a more over-riding limitation than any one suggested above and to which I attach the greatest importance is the basis to which the emoluments of bank men should be related. This is the fundamental point, viz. should ability of banks to pay their white collared labour solely depend upon bank's working funds as my colleagues would have, or should another and currently more fundamental and relevant consideration determining the capacity to pay, namely, the paying capacity of banks, be also considered. In my opinion, equal, if not a greater weight, should be given to the paying capacity of banks and their current financial standing. I am supported, in my stand in this regard, by the decisions of almost all the Tribunals I know of. If this is conceded a clear need is indicated for being more cautious in our Award.

646. In this connection, I may point out that out of some 462 banks, only 191 could afford to pay any dividend even for the year 1951, which I believe was a peak year so far as profits of banks in India are concerned. This is a very significant fact in determining banks' capacity to pay their staff. Further, there are several banks, which have not been able to provide adequate depreciation in the value of the securities held by them so as to reduce their book values to their market value. Out of 25 scheduled banks and 12 non-scheduled banks, started after 1937, only one small bank has been able to have a statutory reserve of 100 per cent, only 4 above 50 per cent. but below 100 per cent., 18 between 10 per cent. and 15 per cent., 12 less than 10 per cent. and 2 no statutory reserve. The shares of all these banks with the exception of the Hyderabad State Bank are quoted at below their paid-up amounts. In several cases of fairly large banks, their market prices are 50 per cent. to 80 per cent. below their paid-up values. I do not, for a moment, believe that these low rates are as a result of deliberate manipulations by the management with the idea of keeping down the emoluments of their clerical staff. Market prices of bank shares reflect, in general, the fortunes of banks as judged currently by dividends, or profits or such other considerations associated with the standing of these banks. The figures of profits of six banks (United Commercial Bank, Bank of Jaipur, Devkaran Nanjee Banking Co., Hind Bank, Bank of Rajasthan and Laxmi Bank) for the year 1952, given in letters sent to the office of the Tribunal by the Indian Banks Association, Bombay show a fall of 6 per cent. to 60 per cent. as compared with those of the previous year. Unlike industrial or commercial concerns, the success of banks depends almost entirely upon their credit, and it is difficult to believe that the management of any bank would cut its very feet by concealing profits with a view to avoiding payment of any dividend and thus let its share prices slump.

647. The only sound way of improving the economic position of our lower and middle classes is by increasing the wealth of the country, so that the total amount available for distribution may be larger. While the State may take such measures as may seem proper with a view to narrowing the gap between the small incomes and very large incomes, we are not, I am sure, at liberty to propose or take any step, which may lead to capital being driven away from any one sphere of the country's activities, which, in its turn, may affect and reduce the scope for employment of our lower middle class in that industry or in the present case the banking industry. While this constitutes another important limitation in respect of our Award, I do believe that, in so far as it lies in our power, we should strive to promote the cause of labour as much as we can. Amelioration of working conditions of labour is an objective, which is justified not only by such considerations as our responsibility to secure for labour tolerable conditions of living, or the desire to pass on to it a reasonable share of profits, but also as I have shown above, by broader considerations including those of social justice. While this no doubt remains the ultimate objective of our social and economic policies, I would, at the present juncture and in all cases where other interests much more fundamental stand to be affected, say, "hasten slowly", lest we overdo things which may later recoil on those whom it is our earnest desire to benefit.

348. I believe the grounds of difference between me and my colleagues, though not so fundamental, are still real enough to justify the modifications, I suggest, in my colleagues' Award. The proposals, I make, would introduce an element of rationalisation and elasticity in the Award, and should be more conducive to stability in staff-management relations. These, if adopted, while satisfying the reasonable demands of bank staff, would not have certain undesirable repercussions on other and equally or more vital sectors of employment, on the other interests associated with the banking industry and its future, and on the economy as a whole; their moderation will ward off any possible undesirable impact on mobilisation, or formation, or any undesirable movement of capital. I am further fortified in the stand I have taken by the fact that the terms of the Award, as modified by me, are in keeping with the spirit of earlier pronouncements of other Industrial Tribunals as well as of this Tribunal (*vide* the Compromise Agreement between the Union Bank of India Ltd. and its employees recently approved by us) and also in keeping with trends of remuneration in similar services and within limits of banks' capacity to pay, which, I may repeat, is after all the most over-riding consideration.

SECTION II—Item No. 9—"Should banks be classified into different categories for the purposes of the adjudication and if so, on what basis".

649. I shall now deal with the main points on which I am unable to agree with my colleagues. Preliminary to discussing the various items such as scales of pay, dearness allowance, house rent allowance, etc. which come under this head, I would like to make certain issues clear, as these have a close bearing in determining the standard and application of the monetary benefits under the Award. These issues mainly relate to:—

- (1) Classification of banks according to capacity and.
- (2) Classification of areas according to population.

I have not been able to agree entirely with my colleagues in regard to both these issues, and, as the method we may adopt in determining the classification under the two heads would naturally affect total emoluments banks will have to pay under the Award, I propose to discuss them in some detail.

650. It is, indeed, very difficult to classify banks in such a way as to make our classification perfect owing to varying activities of the banks, differences in the percentages of their profits and expenses to their working funds and the ratios between their paid-up capital and working funds etc. While I agree that working funds of banks determine their profits to a large extent, these cannot be taken as the sole or the main criterion for determining their profits. In the foregoing section (*vide* paras 645 and 646 of my minute), I have drawn particular attention to, and have emphasised, the fact that banks' capacity to pay should be related not only to their working funds, as my colleagues would have, but also to their paying capacity as I have suggested. The paying capacity of individual banks will, of course, vary, as it is determined by a number of considerations, not always related to the amount of their working funds. These considerations include, among others, the type of business certain banks are particularly interested in. Thus banks undertaking principally foreign exchange business should ordinarily be in

a position to show better results, earn higher profits and pay larger dividends. Banks' profits will also depend upon the type of directorate they may have. Banks with influential directors or those connected with large businesses will, no doubt, make a better showing. The managerial abilities of those in charge of banks would also influence their earnings. Further, banks working in important industrial or urban areas are likely to earn more. Even profits, as such, may not always be the determining factor in assessing capacity. In this context, we have to take into account the fact that there are some banks which, although they show substantial profits from year to year, are not in a position to appropriate even the major portion of their net earnings towards payment of dividends, as a part of the profits has to be set apart for building up statutory and other reserves including provision for bad and doubtful debts, as also for providing depreciation in the value of their investments. To this extent, the paying capacity of banks should be qualified. Still another factor which will limit dividends is the proportion of paid-up capital on the one hand, to working funds on the other. It would be clear that banks with proportionately larger working funds are not always able to pay higher dividends. In discussing this aspect of banks' capacity to pay, my main purpose is to show that profits and dividends as much as working funds determine capacity. This contention of mine is amply borne out by the fact that certain banks referred to below—and there may be many more such banks—although they have substantial working funds have not been able to pay even moderate dividends.

651. It will be seen from Ex. B. 132 that the profit percentage of the Punjab National Bank, which would rank as high as No. 4 among Indian Banks if working funds were to be the only criterion of classification, was 0.17 for 1951, as against 0.8 for the Imperial Bank of India; .957 for the Central Bank of India; 1.29 for the Bank of India and .835 for the Bank of Baroda. The Punjab National Bank was unable to bring down the book value of its securities to their market value as on the 31st December, 1951 and its average dividend for the three years (1949—1951), was only 4.66 as against 15.33 per cent. in the case of the Imperial Bank of India, 14 per cent. of the Central Bank of India and 14 per cent. of the Bank of India and 12 per cent. of the Bank of Baroda. Another bank, the United Commercial Bank which was started in 1943, and, which, according to the proposed classification will fall in 'A' class could not pay any dividend for the first six years, while its average dividend for the three years (1949—1951), amounted to only 3.83 per cent.

652. Reverting to the Punjab National Bank, our attention was drawn to the fact that the bank had to provide for huge losses owing to Partition and various legislative provisions in favour of its displaced debtors which made it difficult for the bank to realise advances from them. The mere fact of its large working funds and a large number of branches is not sufficient to prove the bank's capacity to bear the burden of the high scales of salaries and allowances to the same extent as the other banks placed in the same class.

653. To take still another example, viz, that of the United Commercial Bank. My colleagues seem to have been impressed with the fact that, in the year 1947, the bank issued new shares at par, thus apparently benefitting shareholders to the extent of the premium on old shares which was round about 50 per cent. The year 1947 was a boom year in which prices of shares of a large number of concerns stood 4 to 5 times of what they are to-day. My colleagues have also referred to a statement made by the United Commercial Bank in its Monthly Review to the effect that the bank had shown an extraordinary degree of vitality and skill in growth, and had come up to the status of the 'Big Five' Banks of the country. It is one thing to grow big, but quite another thing to become strong which would mean that the bank's paying capacity had increased proportionately to its size. The growth of a tree does not necessarily mean its ability to bear the burden of a large number of branches and fruits that may grow on it.

654. Similarly, it was pleaded on behalf of a few other banks such as the Bank of Bikaner, that their capacity should not be judged merely by the figures of their working funds but by their statutory reserves, rates of dividend and market prices of their shares.

655. My colleagues classify banks exclusively on the basis of their working funds. I would add that banks' capacity, as determined by profits and dividends should be taken as an equally, if not a more basic factor, in determining classification of banks.

656. If we, therefore, accept that banks' paying capacity should be the basis of classification for purposes of our Award as much as their working funds, as we

must, then, I suggest that an element of elasticity is called for in our classification of banks. What I have particularly in mind is a case or cases of banks whose profits have been comparatively low, due to one reason or another, and whose capacity to meet its or their commitments under the Award is, therefore, affected. Such cases certainly call for notice, and require that we might introduce a proviso to our classification. To meet such situations I suggest we may fix a basic minimum dividend and lay down that the banks, which do not pay a higher dividend than the basic dividend, should get some relief. I think that it would not be unreasonable to fix 4 per cent. (free of income-tax), as the basic minimum dividend, having regard to the present set up of the monetary mechanism of the country.

657. I would suggest that a bank which has paid, on an average, a dividend of not more than 4 per cent. (free of income tax) over a period of three years (1949—1951), should be automatically placed in the class next below to which it will otherwise belong on the basis of our Award. This would secure the desired measure of relief needed by the banks concerned and which, I think, is justified. If, for example, a bank has been declaring, on an average, a dividend of 4 per cent. (free of income-tax) or less during 1949, 1950 and 1951, it should meet its obligations under our Award not on the basis of the class to which it will ordinarily belong, but according to the class next below, if any. Such relief should also extend, in future, to banks which for any two consecutive years are not able to declare a dividend of more than 4 per cent. free of income-tax. The banks, so downgraded, will continue to pay emoluments to their workmen at the lower rate as long as the average rate of dividend for two consecutive years does not exceed 4 per cent.

658. I hope it will be conceded that in the larger interests of the banks concerned and also on a long-term view that compelling banks, paying not more than 4 per cent. dividend (free of income-tax), to meet all the commitments of the class under the award is inadvisable. Such compulsion will not only undermine the financial stability and strength of the particular banks, but also may ultimately affect the interests of the employees themselves.

659. As regards the formula for the classification in future, my colleagues have suggested that the expression "working funds" will mean paid-up capital, reserves and the average of the deposits for the 52 weeks of each year for which weekly returns of deposits are submitted to the Reserve Bank of India under the provisions of the Reserve Bank of India Act, and have directed the banks which are parties to the dispute to publish and exhibit a statement showing such average of the weekly returns of deposits in the first month of the next succeeding calendar year together with a certificate from its auditors as to the correctness of the statement or a certificate from the Reserve Bank of India to this effect. I do not think it quite necessary either to require the banks to prepare such a statement of average deposits for 52 weeks of the year and secondly to obtain a certificate from its auditors or from the Reserve Bank of India, and to publish and exhibit the same. No bank is likely to show smaller figures of its working funds at the end of the year in order to get some benefits on account of reclassification; on the other hand, some banks are supposed to go in for what is called "window dressing", by showing higher working funds at the time of the closing of their annual accounts. I therefore suggest that the figures of working funds, as published in their balance sheets should be taken for the purposes of classification.

Classification of Areas

660. Another direction in which the Award of my colleagues, according to me, fails to take a long term view or does not appreciate the realities of the situation is in connection with the treatment of banks in small towns. I am of opinion that, unless a sort of relief is also afforded to such banks, the operation of the Award, I am afraid, may retard or affect development of banking and ultimately harm the interests of bank employees. I am not quite able to understand my colleagues' unwillingness to exclude banks, branches of offices in rural areas or small towns from the operation of the Award. I maintain that such an exemption is very vital and for very good reasons. Unless we provide for such relief, the development of banking in rural areas, whose resources are mostly untapped and which we so earnestly desire to mobilize, will be seriously affected. Banks will be chary of opening new branches in thinly populated or rural areas because of the high costs of bank labour they will be subjected to under our Award.

661. I rather feel strongly on this point. Weighty and authentic pronouncements, including those of the Rural Banking Enquiry Committee, emphatically support the view I hold. This Committee, which reported in May 1950 after a careful and thorough examination of the banking facilities at present available

in rural areas made certain recommendations. One of the most important of these was that commercial and co-operative banks should be encouraged to open branches in small towns and villages. In this context, the Committee desired that the offices of banks situated in towns having a population of less than 50,000 should be excluded from the operation of the Shops and Establishments Acts in States and from, *what is immediately relevant for the present purpose, the awards of Industrial Tribunals.* I quote below the relevant recommendation of the Committee:—

"High operating costs:—The opening by banks of new branches in semi-urban or rural centres is found to be difficult because of the high operating costs in relation to the earning capacity of such branches. The position in regard to this has of late become particularly difficult in view of the general increase in the running costs of banks, and if the present trend continues, it is feared that many banks may be forced to close a number of their uneconomic branches; in fact, the process of rationalization of branches, it is learnt, has already begun in a number of banks. If banks are to be encouraged to expand their operations to outlying areas, steps will have to be taken to assist them in overcoming this handicap as far as possible. One of the factors which has added to the difficulties of banks in this respect and to which our attention has been particularly drawn by the commercial as well as the co-operative interests is the extension of Shops and Establishments Acts and of awards of Industrial Tribunals to branches of banks in the mofussil. Small branches have necessarily to be run on the basis of minimum staff and compliance with the requirements of these acts, which binds them to certain fixed hours of working and necessitates the maintenance of a number of additional records and registers, adds considerably to their work and other difficulties. Work at the smaller branches is of an intermittent character, there being heavy work during certain seasons and little work during other periods, and unless a certain amount of elasticity and informality is permitted in the case of such branches, it would be difficult to run them and popularise banking among rural people. The enforcement of awards of Industrial Tribunals is likely to result in salary scales, fixed largely with reference to conditions obtaining in large urban centres, being made applicable to the smaller branches and will thus make the maintenance of such branches unremunerative for banks. Costs of living in the smaller towns would be lower than in the larger cities, particularly for locally recruited staff; in any case, it will have to be recognized that the salaries which banks could pay to their staff would have to be related to the paying capacity of the areas concerned, as no bank could be expected to maintain indefinitely branches which are uneconomic, simply because its overall profits are good, or its income at other offices is considerable. We, therefore, recommend that such acts and awards should not be made applicable to the offices of banks situated in towns having a population of less than 50,000, the population figures in the last census being adopted until a new census has been completed."

I do not think we can lightly brush aside such a definite recommendation. Further, I think that we are under a definite obligation to follow this recommendation particularly when it emanates from a responsible body, which must have made a more comprehensive and detailed study of the problem than we can claim. We also know it for a fact that the expansion of business that was taking place until very recently has not only been halted, but also that branches are being closed, on account of the heavy load placed on them following the Sen Award, as the banks allege. I have referred to this development in the previous section. It is on account of these considerations that I would avoid doing anything which in the remotest degree would affect expansion of banking in rural areas.

662. As in all other cases of disagreement with my colleagues, however, I would also suggest a compromise in this and would not press for our acceptance of the recommendation of the Rural Banking Enquiry Committee *in toto*. I think the requirements of the case will be met if we excluded banks, branches and offices in towns with a population of 30,000 or less from the operation of our Award. Such relief need not be for all time to time, but may be limited to a period of two years in case of existing branches or offices and to a period of four years in case of new ones. A minimum period of four years is, I feel, essential to enable the new comers in the field to consolidate their position and be self supporting. Burdening banks in rural areas with all the financial implications of our Award will be

definitely a retrograde step. We must, therefore, recognize the special needs of such banks in the manner I have suggested. It will be seen that in this case also the overriding consideration which obliges me to differ from my colleagues, is based on the grounds of the broader view I take of banks' capacity to pay.

663. My colleagues seem to be under the impression that by providing an additional class, that is a class of banks whose working funds are below Rs. one crore the employees of which are to get slightly lower scales of pay than those employed in class C banks, we will be achieving the object which the Rural Banking Enquiry Committee had in mind while making the particular recommendation referred to above. The provision of this additional class, based on working funds, does not satisfy the requirements of the case as it only means that banks with small working funds will get some concession in the matter of payment of salaries etc. to their staff irrespective of whether they are working in large cities or small towns. Such banks may be in area I or area II or area III. In other words, whereas the creation of an additional class will, no doubt be of some help to small banks, it is bound to militate against expansion of banking in rural areas, as banks there must bear their burden under the Award, albeit at lower rates.

664. I agree that if, instead of creating a fourth class, they had added another class in the matter of areas, the position would have been different. As it is, larger banks in mofussil areas will be handicapped in exploiting fresh avenues of expansion in those areas, because of their heavier commitments under the Award. The question I have raised is a fundamental one. Do we desire to promote the growth of small banks which is likely to receive stimulus from the operation of our Award, or, do we want large banks in cities to extend their activities to small towns by opening branches and offices? The desirability of the latter alternative is evident to any one who has given thought to this problem and to development of banking in other countries.

665. I want the implications of my colleagues' Award, in this particular respect, to be fully realised, and, as a student of banking, I feel, we should guard against these in the interests of evolving a sound and stable banking structure in this country.

666. I do not consider the growth of small banks a desirable development, both in the interests of the banking industry as well as from the point of view of national development. Small banks are more exposed to financial jolts and will not be easily able to withstand these. In this connection, I need only invite attention to the fact that between 1934 and 1945, not less than 715 banks went out of existence. The bank failures in West Bengal in 1950 are very much fresh in our mind. Most of these were small units and, therefore, did not have the resilience of the larger institutions. Small banks also will not have the resources of big banks and will not be able to give the various facilities which the latter provide to their customers. The ability of big banks for organized mobilisation of rural resources, which we have so much at heart, is also definitely larger. Personally, therefore, I am not in favour of very small banks and would like the development of banking in this country to proceed more or less on the same lines as in England, where the number of banks is very small but the number of bank offices is very large. I would, therefore like to encourage strong and healthy banks to open branch offices even in comparatively small towns. It is against this stand that my colleagues' classification of areas militates. It is clear that in order to enable the large banks to open branches in the mofussils or rural areas, some consideration or encouragement must be provided to them also. This is secured under the suggestions I have made in this regard.

667. The basic consideration in classifying banks according to population is to provide graded or varying monetary benefits based on the differences of costs or standards of living in various places or areas. This is also an important consideration underlining my plea for excluding branches and offices of banks in small towns from the operation of the Award. The same consideration impels me to suggest that big cities with a large population like Bombay, Calcutta, Delhi, Madras and Ahmedabad may not be treated on a par, if living conditions in any one or more of these are substantially below the others. For example, living is not so dear in Madras and Ahmedabad as in the other cities. The logic underlying our classification according to population, which is ultimately related to living costs would suggest that Madras and Ahmedabad be placed in area II and not in area I. The facts of the case, which I think, are undisputed and which I give below, justify such a differential treatment.

668. My colleagues have treated Bombay, Calcutta, Delhi, Madras and Ahmedabad alike. I would suggest that Madras and Ahmedabad may not be treated on a par with Bombay, Calcutta and Delhi. According to me this would

not be fair. Indeed, the need to give preferential monetary treatment in case of centres like Calcutta, Delhi and Bombay is recognised by almost all employers and managements, including Governments, Central and State, municipal corporations and financial, industrial and commercial concerns. Our object should be, I think, to provide equality or parity of *real* income as between the various centres under reference and differential treatment for the three centres mentioned above would appear to be the correct method to achieve this end. There are very good grounds for such apparent discrimination. Climatic conditions, as in Delhi, oblige people there to spend more on their clothing, some of which must be woollen and therefore costly, to protect them against rigours of cold; for the same reason people in Delhi have to spend more on their footwear. Similarly, in Calcutta and in Bombay, overcrowded as they are, house rents claim a substantial share of ordinary people's earnings. Living costs are definitely higher, therefore, in centres like Delhi, Calcutta and Bombay. Employees in Madras spend comparatively less on their clothing, footwear and rent which are important elements of cost of living. Thus, living costs in Bombay, Calcutta and Delhi are definitely higher. If, therefore, the banks in all the five centres were compelled to pay alike, those serving in Delhi, Calcutta and Bombay will have definitely a less real income than their counterparts in Madras. Viewed thus, no injustice is involved in providing for lower benefits to the bank staff in Madras. The lower payments in Madras are in no way a reflection on the capabilities of the bank employees in Madras. What we are aiming at is doing economic justice as between the various centres, and justice suggests the course I am proposing. My view is supported by a recent decision of the Labour Appellate Tribunal reported in *Beardsell Employees' Association B.W.A. Beardsell & Co. Ltd.* [1953 (1) L.L.J. 238], in which it was held that wages at Calcutta and Bombay have always been higher than those in Madras with the result that the appeal of the employees' union was rejected.

669. The same stand was taken, more or less, by earlier bank awards. For example, the Gupta Award fixed Rs. 70 as starting salary for clerks in the Imperial Bank of India in West Bengal. This was voluntarily applied by the Bank to similar employees working in other parts of India except in the case of employees in the Madras State, where the starting salary was fixed at Rs. 53.

670. The majority view of the Sen Tribunal, from which Mr. Chandrasekhara Aiyar dissented, also did not place Madras in area I in which Bombay, Calcutta, Delhi and Ahmedabad were placed. I understand that Reserve Bank of India also gives smaller emoluments to its employees working in Madras than in Bombay or Calcutta, or Delhi.

671. My colleagues appear to have based their classification solely on the grounds of figures of population. While I have no doubt that population is an important factor in determining the cost of living in a particular place, I think that the standard of living as I have pointed out, plays an equally important part in determining the costliness of a place. The test is not population alone, but population correlated to costs of living. The fact finds support in the relative remuneration, salaries, dearness allowance, house rent allowance etc. fixed in the case of employees of various State Governments and those of comparable industrial and commercial concerns, either through awards or otherwise. The Government of Bombay have divided the State into five Zones for the purpose of fixing minimum wages in certain industries under the Minimum Wages Act of 1948. This division is not solely based upon population. Also in arriving at financial or monetary adjustments as between various centres, population has not been considered always as the only basis. The concept has to be diluted. The Finance Commission, which reported at the end of 1952 have not based, while allotting their shares of centrally collected revenues to State Governments, their recommendations on the ground of population alone.

672. My plea that the cost of living and the standard of living in Madras are not on the same level as in the case of Bombay or Calcutta or Delhi, finds support from the statement of scales of pay and other allowances in the case of employees in the Secretariat of Bombay, Calcutta and Madras as given below:—

Serial No.	Name of State	Pay scale	Dearness allowance	Other allowance	Total (Initial start)
			Rs.	Rs.	Rs.
1	Bombay . . .	Clerks : Rs. 75—5—140	45	..	120
		—E. B. —8—220.			
		Subordinates : Rs. 35—4—40,	35	6 (House rent)	76

Serial No.	Name of State	Pay scale	Dearness allowance	Other allowance	Total (Initial start)
2	Madras	Clerks : Rs. 51—3—75— 2½—100. Subordinates : Rs. 18—½—25.	Rs. 22 18	Rs. 9 7	Rs. 82 43
3	West Bengal	Clerks : Rs. 80—4—160 —5—180. Subordinates: Rs. 20—½—25.	35	0 2	123 47

It will thus be seen that whereas in the Secretariat of the Government of Bombay, total emoluments of a junior clerk amount to Rs. 120 (salary Rs. 75 plus Rs. 45 by way of other allowances), such a clerk in Madras gets only Rs. 82 (salary Rs. 51 and Rs. 31 by way of other allowances). Similarly, whereas a member of the subordinate service in Bombay gets Rs. 35 as salary and Rs. 41 as allowances, the person in the subordinate service of the Madras Government gets Rs. 18 as salary and Rs. 25 as allowances. Surely it cannot be said that the clerks and members of the subordinate service, who join service of the Secretariat of the Madras Government are, in any way inferior to or of a lower calibre than those employed in banks in Madras. And this is precisely what is implied under the terms of my colleagues' Award. We should thus beware of creating dissatisfaction in comparable services in Madras. The total emoluments in comparable commercial concerns in Madras are much lower than those in Bombay as will be seen from the statement given below:—

Pay scales and allowances of clerks and subordinates obtaining in certain commercial firms in Bombay and Madras.

Serial No.	Name of company	Pay scale	Dearness allowance	Other allowances	Total (Initial start)
1	Tata Industries Ltd., Bombay.	Clerks : Rs. 75—7—(last year 8)—125—E. B.—10—205—15 (2)—280. Subordinates : Rs. 30—2—52—3—70—5 (2)—90.	Rs. 53 53	Rs.	Rs. 128 83
2	Oriental Government Security Life Assurance Co., Ltd., Bombay.	Clerks : Rs. 75—5—105—E. B.—6—135—7—170—E. B.—8—210. Subordinates: Rs. 30—2—64.	49 38	.. ..	124 68
3	Imperial Chemical Industries (India) Ltd., Bombay.	Clerks : Rs. 75—5—115—7½—130—E. B.—7½—160. Subordinates : Rs. 30—2—50—2½—65.	64 56	.. ..	139 86
4	Scindia Steam Navigation Co. & Associated Cos. Bombay.	Clerks : Rs. 50—3—60. Subordinates : Rs. 30—2—42.	60 60	.. ..	110 90
5	Oriental Government Security Life Assurance Co., Ltd., Madras.	Clerks : Rs. 56—4—80—E. B.—5—110—5—115—6—145—E. B.—7—180. Subordinates : Rs. 30—1—50.	49 38	.. ..	105 68
6	Simpson & Co., Ltd., Madras.	Clerks : Rs. 50—5—80. Subordinates: Rs. 26—2—42.	44 44	.. ..	94 70
7	Spencer & Co., Ltd., Madras.	Clerks : Rs. 30—2½—42½	35	..	65
8	Best & Co., Ltd., Madras	Clerks : Rs. 25—1½—49.	48	..	73
9	Parry & Co., Madras	Clerks : Rs. 35—2—50—E. B.—2—56. Subordinates : Rs. 26—1—35.	42 30	.. ..	77 56

The following statement giving the minimum wages fixed for certain classes of employees in Madras and Bombay under the Minimum Wages Act as will also show that they are much lower for the former than those fixed for the latter.

Minimum rates of wages fixed by Government of Bombay and Madras

Bombay	RS.	Madras	RS.
<i>Public Motor Transport</i> (Greater Bombay,		<i>Corporation of Madras</i>	(All inclusive).
<i>Skilled :</i>		<i>Grade V :</i>	
Drivers, mechanics, electricians, carpenters etc.	95	Drivers, electricians etc.	40
<i>Semi-skilled :</i>		<i>Grade IV :</i>	
Hammerman	75	Maistrv etc.	40
<i>Unskilled :</i>		<i>Grade III :</i>	
Cleaners, watchmen, sweepers, peons etc.	60	Jamadars etc.	40
		<i>Grade II :</i>	
		Peons, hammerman, carpenters, mechanics etc	25
		<i>Grade I :</i>	
		Sweepers, cleaners, watchmen etc.	25

673. For more or less similar reasons, I am also unable to see any reason why Ahmedabad should be placed on the same footing as Bombay, Calcutta, and Delhi. No doubt, some of the leading banks in Bombay agreed to treat the employees of their offices in Ahmedabad on the same footing as those in Bombay as a result of the Consent Award of Shri H. Divatia. I, however, do not find any such agreement or acquiescence by banks either in the Sen Award of 1950 or in the Award by my colleagues. As regards the statement in my colleagues' Award that the banks did not raise the question about Ahmedabad not being placed in the same category as Bombay, Calcutta and Delhi, it may be stated that as the Tribunal had given the indication that population was to be more or less the basis of the classification of the areas, banks could not have thought of Ahmedabad being treated on the same footing as the other three principal cities. The presumption was, that Ahmedabad would not be placed on a par with Bombay.

674. In support of the treatment I suggest for Ahmedabad, I might refer to the fact that the Government of Bombay have not placed Ahmedabad in Zone No. 1 along with Bombay under the Minimum Wages Act, and a consequently lower rates of wages are fixed for Ahmedabad.

675. I am therefore not in favour of placing Madras and Ahmedabad in Area I.

SECTION III.—Scales of pay and dearness allowance—Clerical and subordinate staff

Subsistence wage and living wage

676. Having dealt with the two preliminary issues, viz. the classification of banks and classification of areas, I now turn to the most important question—the pay scales. In this connection, we need to consider how far we can approximate to living wage, as distinct from subsistence wage. Or, in other words, how far additional comforts are warranted in respect of bank men, under prevailing circumstances, beyond the levels of subsistence wage. We agree, and, indeed, it is not open to any question that, while it is essential to provide the workmen with such wages as may be required to enable them to have a minimum or subsistence wage, it is also necessary to see that in our Award we try to secure for bank men conditions of living as near a living wage as possible. Their social status, educational qualifications and the mode of life they have been used to, which ought to be considered as vital factors in determining middle class living costs, definitely entitle them to a living wage or to standards as near it as possible.

677. At the same time, it is necessary to see that anything over and above the subsistence wage must depend, among other factors, upon the financial capacity of the employer. Almost every adjudicator has held the view that in determining what amenities could be extended to employees, the financial capacity of the employer must be the paramount consideration.* In order that the implications of what I say below in this regard may be fully understood, we must have a clear conception of what subsistence wage and living wage respectively mean. The former invariably includes provision in respect of the essential items of living costs, namely, (i) food, (ii) clothing and (iii) rent. What further amenities of life, bank employees should have over and above these, would depend largely, among other things, on the economic conditions of the country, including the level of national income, the financial capacity of the employer, scales of remuneration of Government employees and those in comparable commercial and industrial concerns.

678. The most important of these considerations is, of course, employers' capacity, in this case banks' capacity to pay. I submit that we have, to an extent, overjudged or overrated this capacity in our Award. A reference to earlier awards will bear me out. In this connection, mention may be made of (1) The Divatia Award of 1947 for employees in Bombay, which was extended to employees of certain banks in Ahmedabad, as a result of the willingness of the banks concerned, (2) The B. B. Singh Award of 1947 for the employees of certain banks in the United Provinces, (3) The Gupta Award of 1947 in the case of the Imperial Bank of India, Bengal Circle, the benefit of which was given by the bank voluntarily to its staff in other parts of India, except Madras, where the initial start was lower than in the case of employees elsewhere, and (4) The S. K. Sen Awards of 1947 and 1948 so far as the employees of the Central Bank of India in Calcutta and West Bengal were concerned. According to the Divatia Award, the starting salary of a clerk in a big bank was fixed at Rs. 65 with Rs. 30 as minimum and Rs. 50 as maximum dearness allowance. In the case of small banks, the starting salary was fixed at Rs. 55 with Rs. 25 as the minimum and Rs. 35 as the maximum dearness allowance. An examination of these awards, will show that the monetary benefits, as awarded by our Tribunal are definitely much more liberal than those provided in the earlier valid awards given not many years ago.

Statements showing the pay and allowances at start of service fixed under several awards.

'A' Class Banks

(a) Clerical Staff

		Pay		Dearness allowance		Other allowances		Total	
		Rs.	a. p.	Rs.	a. p.	Rs.	a. p.	Rs.	a. p.
Bombay:									
	Divatia Award . .	65	0 0	30	0 0	..		95	0 0
	Sen Award " . .	96	0 0	25	8 0	8	0 0	129	8 0
		(85)		(35)		(8)		(128)	
Calcutta:									
	Gupta Award . .	70	0 0	35	0 0	..		105	0 0
	S. K. Sen Award . .	65	0 0	35	0 0	15	0 0	115	0 0
	Mukherjee Award . .	65	0 0	35	0 0	..		100	0 0
	Sen Award . .	96	0 0	25	8 0	8	0 0	129	8 0
		(85)		(35)		(8)		(128)	
Ahmedabad:									
	Divatia Award . .	65	0 0	30	0 0	..		95	0 0
	Sen Award . .	96	0 0	17	0 0	6	0 0	119	0 0
		(85)		(35)		(6)		(126)	
Kanpur:									
	B. B. Singh Award . .	60	0 0	25	0 0	..		85	0 0
	Sen Award . .	82	0 0	29	0 0	5	0 0	116	0 0
		(73)		(30)		(6)		(109)	

Figures in brackets denote emoluments proposed by my colleagues.

(b) Subordinate Staff

'A' CLASS BANKS

		Pay			Dearness allowance;			Other allowances			Total		
		Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
Bombay :													
	Divatia Award . .	30	0	0	25	0	0	..			55	0	0
	Sen Award . .	60	0	0	16	8	0	8	0	0	84	8	0
		(40)			(35)			(8)			(83)		
Calcutta :													
	Gupta Award . .	30	0	0	17	0	0	..			47	0	0
	S. K. Sen Award . .	30	0	0	25	0	0	..			55	0	0
	Mukherjee Award . .	30	0	0	25	0	0	..			55	0	0
	Sen Award . .	60	0	0	16	8	0	8	0	0	84	8	0
		(40)			(35)			(8)			(83)		
Ahmedabad :													
	Divatia Award . .	30	0	0	25	0	0	..			55	0	0
	Sen Award . .	60	0	0	11	0	0	6	0	0	77	0	0
		(40)			(35)			(6)			(81)		
Kanpur :													
	B. B. Singh Award . .	25	0	0	16	0	0	..			41	0	0
	Sen Award . .	49	0	0	18	8	0	5	0	0	72	8	0
		(36)			(30)			(6)			(72)		

Figures in brackets denote emoluments proposed by my colleagues.

679. The earlier Tribunals must certainly have given fullest consideration, to all the relevant facts, and covered much the same ground as we have, in order to see how far their awards might approximate to a living wage. Their decisions should have due weight with us. I do think the general tenor of these awards would appear to counsel moderation, as these awards, in no case, go as far as the present Tribunal's Award does.

680. To those, who would maintain that bank employees should receive the same total emoluments under our Award, as laid down in the Sen Award of 1950, I would point out that the reference is not quite apposite. I would ask them to ponder over the developments that have followed that Award. Most of the other awards I have referred to were given in or after 1947. Surely conditions in this country during the last few years have not changed to such an extent as to require the overhauling of scales of salaries and the change was much less before the appointment of Sen Tribunal. Whatever rise there has been since 1947 in the cost of living during recent years can be provided for by raising the dearness allowance. This to me appears to be a sound practice, as dearness allowance is usually linked with living costs. It is not desirable to disturb frequently the basic salary scales [see Army and Navy case 1951 (2) L.L.J. page 31, Ford case 1951 (2) L.L.J. 121 and Buckingham and Carnatic Mills case 1951 (2) L.L.J. page 314]. Further, increases in the salaries apart from the fact that they constitute a permanent burden automatically increase the total financial load on banks, as they mean correspondingly additional contributions to provident fund, bonus and gratuity. If anything, the aftermath of the Sen Award must caution us against subjecting banks to too heavy a financial load. It was because of the unduly heavy commitments which banks, as they thought, were subjected to under this Award that some of them challenged its validity before the Supreme Court, which, on April 9, 1951, declared it void. True, the banks challenged the Award on technical grounds, but they did so as, probably no appeal would lie on facts. But for the Industrial Disputes (Amendment and Temporary Provisions) Act of 1951 (Act XL of 1951) freezing certain provisions of the Sen Award for the time being, the other Awards referred to above, would have governed the emoluments of the bank employees, or in other words, banks' burden would have been considerably lighter. The Sen Award though held invalid has been for all practical purposes in operation for about two years. I have stated above that the main consideration which compelled banks to challenge the validity of the Sen Award was their apprehensions regarding their ability to meet their commitments under it. Later developments have perhaps borne out these apprehensions. I have made a reference, in another context, to the fact that banks have been lately compelled to close branches or offices, presumably because they found the burden of the Sen Award too heavy for them, whereas they had been earlier expanding their business in small towns and rural areas. The question is do we intend continuing to place banks, more or less, under the same predicament as under the Sen Award, or should we consider the

question on its merits taking due note also of the earlier awards and the developments since then. While my colleagues do not apparently suggest that we follow the Sen Award, the overall effect of their Award will be to give to a large number of bank men practically the same monetary benefits as they were provided for under the Sen Award so far as employees of 'A' class banks in area I are concerned. The following comparative statement showing the total emoluments, consisting of basic salary, dearness allowance and house rent allowance, exclusive of any special allowance or officiating allowance attached to the post of an employee for a period of service for 30 years and calculating dearness allowance at the frozen rates in the five principal cities to be classed in area I will show the position at a glance:—

BANK 'A'			
Area I			
		As per Sen Award	As per my colleagues
		Rs.	Rs.
Bombay and Calcutta	. . . . .	93,774	93,009
Delhi	. . . . .	92,826	91,821
Ahmedabad	. . . . .	87,444	91,821
Madras	. . . . .	90,630	91,821

The position of the banks will be worse if the comparison is made with the remuneration payable under the various awards referred to above as per statement in para. 678 of this minute. The rise in the emoluments of subordinate employees, particularly in 'A' class banks in certain areas, will, in some cases, be more than 70 per cent. over those under valid awards as will be seen from the statement in para. 678 of this minute. It is true that my colleagues suggest a lower starting salary than is provided for under the Sen Award, but the other benefits, more particularly the dearness allowance under my colleagues' Award, are much higher than those under the Sen Award. In judging the magnitude of the financial burden on banks, we must compare the total monetary burdens under our Award with those under the Sen Award. Thus in the first year of his service, a clerk in 'A' class bank in Bombay and Calcutta will cost to his employers roughly Rs. 2,200 if we take into account monetary benefits such as bonus for two months generally paid by all big banks, provident fund, gratuity, cost of leave etc.

681. In case of areas II and III, the total emoluments in certain cases under our Award will be lower and in a few cases higher than those under the Sen Award. No doubt, banks in classes B, C and D in certain areas are likely to get some relief. I am merely drawing attention to the aftermath of the Sen Award so that we do not become a party to perpetuating the handicaps which banks thought they were subjected to, under that Award. I do think there is some justification for this view of banks.

682. Apart from the earlier awards, which should provide guidance to us as well as set limits to the benefits we might extend to bank men, there is the recent case of a mutual agreement between the employees and the management of the Union Bank of India Ltd. concluded during the pendency of the proceedings of our Tribunal, and to which the Tribunal has given its approval. I do think that this particular compromise agreement, looking to the timing and the circumstances of its conclusions should not be lost sight of, while we indicate the terms of our Award. Below are given the total emoluments under this compromise agreement, in respect of the Bombay employees of this bank which comes under class C of our classification in the first year of their service.

Union Bank of India

('C' Class)

Total emoluments for head office and branches in Bombay.

Clerical

1st year

Rs. 95

(109).

(Figures in brackets denotes the emoluments proposed by my colleagues).

683. Also the latest developments in the banking industry such as the fall in the profits of banks in 1952 as compared to 1951 should also be duly considered as this is bound to affect banks' capacity to pay. In this connection, attention is

invited also to the following figures relating to the Central Bank of India appearing in the "Times of India" dated 7th March 1953:—

"Investments (at book value) in Government and other trustee securities stand at Rs. 55.1 crores the face value of which is Rs. 56.05 crores and market value Rs. 51.55 crores. The overall investment portfolio stands at Rs. 62.26 crores against Rs. 63.98 crores."

This is one further consideration why we need to be moderate in our Award. I hope I will not be misunderstood. There is no question of my being either pro-bank or pro-labour. Much as I would like to help bank men, and have made it abundantly clear that I am sincerely interested in their welfare, I cannot close my eyes to the realities of the situation, nor should bank men. I would, therefore, suggest that so far as the salary scales are concerned, our Award should approximate more to the earlier awards than to the Sen Award.

684. Speaking of bank men, I am reminded of an observation, I think, made on behalf of the employees, that if certain concerns are unable to pay a living wage, they might better close. I do not think bank employees want us to take this argument seriously, for they should but too well know what the consequences of a closure will be. I have known of instances where this specious argument was drawn to its logical extreme and concerns closed, because employees would have all the benefits under the Award and nothing less. These very employees, after the closure of the concern, being in a chastened mood are known to have approached the management for the reopening of the concern on a compromise basis, rather than be on the streets. There are a number of cases of this type, one of these being that of the Sanj Vartman Press, Bombay which had to discontinue the publication of its daily paper known as Sanj Vartman apparently because it could not meet all its commitments under an award.

685. In the above, I have suggested rather a cautious approach, which, while it is in keeping with the provisions of all the recent bank awards to which effect has been given, also takes note of certain other relevant factors, including the latest trends in banks' capacity to pay. There is a further consideration of a practical type which applies to bank men, and which also supports my point of view in this regard. It has been urged that bank men should have total monetary benefits equivalent to three consumption units by about the 8th year of service, as against 2.25 consumption units in the first year of service. This calculation is arrived at as follows:—

- 1.00 Consumption Unit for Bankman.
- 0.80 Consumption Unit for his wife.
- 0.60 Consumption Unit for the first child.
- 0.60 Consumption Unit for the second child.

686. I think the assumptions implicit in the above calculations are not warranted by the present day facts. It may be that such an increase in the family implying additional financial responsibilities is likely in case of working classes, but that the proposition holds good also in case of the bank men who belong to the middle class, is open to doubt. Facts have been produced before us to show that no such increases in the middle class, to which bank men belong take place now-a-days. It may be that social customs have changed, or it may be that young middle class men deliberately put off marriage. The following data supplied by two of the banks, namely, the Central Bank of India and the Bank of Baroda would appear to corroborate this:—

(1) The Central Bank of India.

Age group	Total	Unmarried
24	39	38
25	53	40
26	130	24

(2) Bank of Baroda.

Age group	Total	Unmarried
24	17	16
25	18	14
26	11	8

687. Although the above figures relate to two offices of the two big banks named above, as they concern very large numbers of employees they give us fairly correct view of the position. This view is also supported by the census figures given by us in paragraph 194 of our Award. The conclusion is clear that the majority of our middle class young men do not get married and multiply as quick as to justify the assumption of the need for provision for three consumption units for them about the 8th year of service, which most of the employees would reach about the 25th or 26th year of their age. The financial implication of providing bank men with monetary benefits equivalent to 3 consumption units by about the 8th year of their service is that their emoluments should show an increase of 33 per cent. in the 8th year of service. Such a standard is, I consider, not warranted by facts, and should be reached later.

688. I shall refer, in some detail, to the emoluments of Government employees or those given by certain banks earlier either voluntarily or as a result of awards from the scales given in para. 259 it will be seen that the scales of salaries of the lower division clerks in the Secretariat of various Government are generally the highest so far as employees of Government and semi-Government institutions are concerned. They are much higher than for employees in mofussil areas. The starting salaries of such clerks varies from Rs. 30 plus Rs. 22 dearness allowance in Travancore-Cochin, to Rs. 75 plus Rs. 45 as dearness allowance in Bombay, except in Calcutta where both are the highest, Rs. 80 as starting salary plus Rs. 45 as allowances. In Madras, the salary is Rs. 51 with Rs. 22 as dearness allowance, and Rs. 9 as house rent allowance, thus making a total of Rs. 82, as against Rs. 125 in Calcutta and Rs. 120 in Bombay. The starting salary of clerks in the mofussil scale in the State of Bombay is Rs. 46. It will thus be seen that my colleagues' Award lays down much more generous terms for bank men compared to conditions prevailing in similar Government services.

689. Moderation in fixing up total emoluments under our Award is also called for in view of the developments that have taken place during last 5 years or so. The emoluments fixed by earlier Tribunals during 1947-49 were necessarily related to the conditions as prevail then. During these years, however, living costs had mounted up very steeply and the earlier Tribunals were justified in giving substantially high monetary benefits to banks employees then. Since 1949 however, as shown by the recently compiled index of All India cost of living given below the rise has been comparatively small.

Interim series of All India average working class cost of living index number.

		(Base: 1944-100)				
Year		(Average)		Index		
1945	{	"	}	100		
1946		"		106		
1947		"		120		
1948		"		134		
1949		"		138		
1950		"		138		
1951		"		144		
January	.	.	.	1950	1951	1952
February	.	.	.	135	139	142
March	.	.	.	135	140	140
April	.	.	.	135	142	135
May	.	.	.	135	143	141
June	.	.	.	137	144	140
July	.	.	.	138	146	140
August	.	.	.	141	145	142
September	.	.	.	143	145	143
October	.	.	.	143	145	143
November	.	.	.	142	146	144
December	.	.	.	140	146	..
	.	.	.	138	144	..

Source—INDIAN LABOUR GAZETTE—DECEMBER 1952.

As shown in the table, living costs in India rose by about 20 per cent. in 1947 and by 38 per cent. in 1949 compared to 1944. Since 1949 the rise has been only about 4 per cent. In view of this, I feel, we are not justified in giving substantially larger increases in emoluments to bank employees than the levels prevailing during 1947-49. The trends in living costs do not justify a steep upward revision. Total emoluments in the Sen Award of 1950 were higher by about 30 per cent. than those granted in the earlier awards. Whatever the justification for the higher

emoluments of the Sen Award, we early in 1953 will not be in the right if we accorded to bank men the same substantial increases in emoluments as in the Sen Award. And, yet, that is, I am afraid, what my colleagues are doing, as I have shown above. I would, therefore, suggest that we take due note of the realities of the situation and act accordingly. This would mean a modification of my colleagues' Award in the direction I suggest.

690. Finally, before I give my idea of what the salary scales based on the above considerations should be like, I would just like to advert to the revised scheme of scales put up, at the request of this Tribunal, by the Central Bank of India. This scheme had a mixed reception, and some big banks, including the United Commercial Bank and the Punjab National Bank thought it to be over-generous. According to this revised scheme, the starting salary in the case of bank employees of 'A' class banks in Bombay and Calcutta was to be Rs. 75 with dearness allowance at 35 per cent. with a minimum of Rs. 45, thus bringing the total emoluments to Rs. 120, the same as in the case of similar class of employees in the Secretariat of the Bombay State. According to this scale, a clerk in a bank in Bombay would get Rs. 25 more as total emoluments on entering service than provided in the Award of Sir. H. Divatia. Incidentally, it may be mentioned that the scales of pay in the Central Bank Scheme provides for three efficiency bars as in the Divatia Award, as against only one efficiency bar after 20 years of service as provided in the Award of my colleagues. I think that the scale of remuneration proposed by the Central Bank of India appears to me fair, more particularly when we take into account the fact that the employees of big banks are paid generally bonus equivalent to 2 to 3 months' salary and, in addition, are to get two retiring benefits, viz. provident fund and gratuity while they will have to put in comparatively shorter hours of work and have the advantage of liberal rates of payment for over time, as proposed by us. Leaving alone the few global and very prosperous concerns the starting salary of the lower division clerks is no where more than Rs. 75 including comparable services in Bombay. To be on the generous side, I am in favour of a compromise between the figures suggested by the Central Bank of India and those by my colleagues I would suggest a starting salary of Rs. 80 for a clerk joining service in one of the 'A' class bank in a class I area.

691. Thus after taking into account all relevant facts detailed above I suggest the following scales of pay and rates of dearness allowance and house allowance for different classes of banks in the various areas:—

Scales of pay—Clerical Staff

Class 'A' Banks

Area I	. . .	Rs. 80—5—100—6—124—E. B.—7—145—8—161—E. B.—9—197—10—227—E. B.—12—275.
Area II	. . .	Rs. 70—4—86—5—106—E. B.—6—124—7—138—F. B.—8—162—9—198—E. B.—10—218—11—240.
Area III	. . .	Rs. 62—3—74—4—82—5—92—E. B.—6—110—7—124—F. B.—8—180—E. B.—9—216.

Class 'B' Banks

Area I	. . .	Rs. 68—4—84—5—104—E. B.—6—122—7—136—E. B.—8—160—9—196—E. B.—10—216—11—238.
Area II	. . .	Rs. 62—3—74—4—82—5—92—E. B.—6—110—7—124—E. B.—8—180—E. B.—9—216.
Area III	. . .	Rs. 57—3—69—4—85—E. B.—5—100—6—112—E. B.—7—140—8—164—E. B.—9—200.

Class 'C' Banks

Area I	. . .	Rs. 62—3—74—4—82—5—92—E. B.—6—110—7—124—E. B.—8—180—E. B.—9—216.
Area II	. . .	Rs. 57—3—69—4—85—E. B.—5—100—6—112—F. B.—7—140—8—164—E. B.—9—200.
Area III	. . .	Rs. 52—3—64—4—80—E. B.—5—95—6—107—E. B.—7—135—8—159—E. B.—9—195.

Class 'D' Banks

Area I	. . .	Rs. 57—3—69—4—85—E. B.—5—100—6—112—E. B.—7—140—8—164—E. B.—9—200.
Area II	. . .	Rs. 52—3—64—4—80—E. B.—5—95—6—107—E. B.—7—135—8—159—E. B.—9—195.
Area III	. . .	Rs. 43—3—60—4—76—E. B.—5—101—E. B.—6—111—7—147—E. B.—8—171—9—180.

Rate of dearness allowance

		Minimum Maximum	
		Rs.	Rs.
Area I	30%	30	60
Area II	25%	25	50
Area III	20%	20	40

House rent allowance

Pay-slab	Bombay, Calcutta, Delhi (including New Delhi)	Ahmedabad Kanpur
	Rs.	Rs.
Below Rs. 100	8	5
Rs. 100—Rs. 200;	10	7
Above Rs. 200	15	10

692. I think this is a fair approximation to living wage conditions I referred to earlier. It compares favourably with the Central Bank Scheme referred to above, particularly when it is remembered that this scheme does not appear to provide any house rent for employees even in large cities.

693. The general remarks made above apply also to the emoluments of bank employees in the subordinate service. I therefore suggest a reduction of 0½ per cent in the basic pay awarded to them by my colleagues.

694. I am unable to see the reason which has led my colleagues to do away with efficiency bars except after the 20th year of service. Efficiency bars have a distinct role to play in the interests of an institution and those of its employees. If, therefore, efficiency bars are to be of any use they should be placed in the earlier years of a person's service when as a result of these bars, an employee may be expected to exert himself and improve his efficiency to the advantage of all concerned. A person after putting in over 20 years of service, I am afraid, is not likely to do so. The following extract from the Pay Commission Report may be noted:-

"We are not prepared to ignore the fact that right down from the time of the Islington Commission, all responsible authorities have regarded the principle of the efficiency bar as an indispensable part of the time-scale system if it is to work satisfactorily."

Sri Gupta in the Imperial Bank of India award in West Bengal observed:

"The efficiency bars as well as the prospect of promotion in the senior grade will provide the necessary incentive to efficient performance of duties."

Sir H. V. Divatia remarked in the Bombay Banks Award:

"If there is no such bar a clerk who is found to be inefficient after his confirmation will have no incentive for improvement throughout his whole service and the employer may have no alternative except to discharge or dismiss him."

695. Sir H. V. Divatia also in the case of salaries for bank clerks, employed by big banks, placed efficiency bars at the end of the 11th, 18th and 22nd year of service. In the case of small banks, efficiency bars were placed between different grades, the first at the end of 8th year, the second at the end of 16th year and the third at the end of 21st year. Scales of pay put up by the Central Bank of India also provides efficiency bars at the end of 11th, 17th and 21st year of service.

696. I am therefore of opinion that efficiency bars should be placed in all the scales at the end of the 9th, 14th and 21st years of service.

SECTION IV.—Item No. 3—“House rent allowance. If the allowance is payable should it be paid to all workmen.”

697. On the whole I am in agreement with my colleagues in the matter of granting special house rent allowance to employees of banks working in certain large cities, but would restrict it to following scale and to the following cities as per Sen Award:—

Calcutta, Bombay, Ahmedabad, Delhi and Kanpur, the higher amount being given to Calcutta, Bombay and Delhi including New Delhi and the lower to Ahmedabad and Kanpur.

Pay-slab	Bombay, Calcutta, Delhi including New Delhi	Ahmedabad, Kanpur
	Rs.	Rs.
(a) Below Rs. 100	8	5
(b) Between Rs. 101 and Rs. 200	10	7
(c) Above Rs. 200	15	10

I am not satisfied that the rents in the three other cities—Madras, Hyderabad and Bangalore whose population exceeds 7 lakhs are so high as to justify a separate house rent allowance.

698. However, in the case of workmen who are allowed to sleep on the bank premises the house rent allowance should be given only in case of married employees whose families are staying with them and who have to pay rent. In this connection, attention is invited to para 219 of the Sen Award, according to which if an employee is allowed to sleep on bank premises, whether such accommodation is or not adequate for the workman's family, he will not be entitled for special house rent allowance provided for the cities named above.

699. Once again agreeing with the majority view of the Sen Tribunal, I am not convinced that rents which the employees in Madras have to pay are comparatively so high as in the cities named above for which special rent allowance is proposed.

SECTION V.—Item No. 12: “Rules for fitting the existing staff into the revised scales of pay”.

700. As regards the direction given in Chapter 13 while I agree with my colleagues that the basic pay of the employees who entered service of a bank before 31st January 1950 shall not be reduced in any case, the increments provided for them by my colleague for service before 31st January 1950 appear to me rather very generous.

701. Shri Divatia in his bank Award did not give any particular direction in connection with such adjustments and left the matter to the discretion of bank managements. The Gupta Award provided for the adjustment of salaries on the following basis, varying according to the 4 grades prevailing before that award.

“Grade A. For persons in the first or second year of service the minimum of the proposed junior scale. For those from the third to the seventh year of service the stage in the proposed scale next above their present pay. In other cases, the next stage on the proposed scale above their present pay plus one advance increment only.

Grade B. An *ad hoc* increase of Rs. 6/- over present pay, and if the pay so fixed is intermediate between two stages in the new scale, the next higher stage.

Grade C. The next higher stage on the proposed Senior Scale.

Grade D. An *ad hoc* increase of Rs. 10/- over present pay, and if the pay so fixed is intermediate between the two stages, the next higher stage.”

Adjustments were subject to the condition that the pay of an employee in the proposed scale would under no circumstances exceed what he would have drawn if his entire service had been on the proposed scale.

702. In view of the fact that our Award will have retrospective effect for at least three years so far as the fixation of salaries of employees as per our Award

is concerned, I am in favour of the scheme recommended by the Central Pay Commission and suggest the following scale:—

When a person on the existing scale is brought on the new scale, his initial pay should be fixed at the lowest figure arrived at by the following calculations.

- (a) What he would draw if his entire service in the existing scale had been on the corresponding proposed scales of pay.
- (b) Fix the initial pay at the stage in the proposed scale next above the pay he is drawing in his present scale and add one increment in the proposed scales for every three completed years of service.
- (c) Add to the present pay the sums stated below and fix initial pay in proposed scale at the stage next above the amount so arrived.

<i>Pay</i>	<i>Amount to be added</i>
Not exceeding Rs. 100	Rs. 15
Between Rs. 101 to Rs. 200	Rs. 20
Between Rs. 201 and above	Rs. 30

SECTION VI—Item No. 19—“Hours of work and overtime.”

703. I do not think that the work of a large majority of the bank workmen is either so strenuous or exacting as to justify shortening of working hours for such employees. This view is supported by the fact that even in advanced countries like England employees of banks are expected to attend office from 9 A.M. till 5-30 P.M. with about an hour for lunch. In the United States as well as in New Zealand, although banks have a 5-day week, the total number of working hours for bank employees is 40 hours. Even in the adjoining countries such as Ceylon, Pakistan and Burma, bank employees are required to put in more hours of work than will be the case under our Award. Nearer at home, the postal employees including those working in Savings Bank Department, whose work is in some respects similar to that of the bank employees, are required to put in 8 hours of work a day with an interval of half an hour, and they have fewer holidays than bank employees have. We have been told that the hours of work in the case of employees of some of the leading firms of Chartered Accountants in Bombay are also longer than those laid down by us. It will thus be seen that the working hours for bank employees in India as proposed by us are more favourable than those in the case of similar classes of workmen abroad or even in comparable callings in India.

704. In spite of what I have stated above I am one with my colleagues in fixing the hours of work as laid down in the Award, and also agree with them that overtime must be paid but only at $1\frac{1}{2}$ times the ordinary rate. I am however unable to see any reason why in fixing the rate of payment for overtime, dearness allowance also should be taken into account. I am not aware of any Award, which entitles the workmen of any concern to include dearness allowance in the rate for claiming overtime allowances, except in the case of General Motors, where I understand it was laid down that if an employee had to work for more than the hours prescribed under the Shops and Establishments Act, the overtime rate should include dearness allowance. In all the other Awards including the ~~San~~ Award, the basis of calculation excludes dearness allowance. Dearness allowance is given for meeting higher cost of living resulting in higher expenses on items such as house rent, clothing and certain other necessities of life, which, it will be agreed, do not vary with the number of hours an employee has to work overtime. The mere fact that a person has to work overtime does not mean, therefore, that he has to spend more on his clothes, rent, footwear, etc. It is the workman's basic pay which determines the level of his standard of living and which should, therefore, be the basis for payment of overtime. I do not know of any other country in which the bank employees are paid more than $1\frac{1}{2}$ times of their normal wages for overtime. According to my colleagues' Award, the payment for overtime, as it will include dearness allowance, will be more than $1\frac{1}{2}$ times the normal wage, and in some cases, even more than twice. I would therefore, base the payment for overtime at $1\frac{1}{2}$ times the rate of basic pay. I would further like to regulate the payment of overtime work on the basis of every half an hour instead of 15 minutes as proposed by my colleagues, mainly on account of administrative difficulties involved in enforcing my colleagues' proposal in this regard. I understand that in the Reserve Bank of India the practice is ordinarily not to pay any overtime unless an additional half a day's work is put in with the previous consent of the head of the Section or department.

705. I am further of the opinion that the additional 20 per cent. payment proposed by my colleagues should not be given except after two hours of paid overtime instead of one hour suggested by my colleagues. Even here my suggestion is more liberal than the practice obtaining in this regard in the Reserve Bank of India or in banks in certain foreign countries. For example according to an award given in 1949 the employees of banks in New Zealand receive only $1\frac{1}{2}$ times the ordinary rate for the first three hours of overtime work and twice the rate for any excess of work beyond eleven hours in any one day, the working day for bank employees being one of eight hours.

SECTION VII.—Item No. 10. "*Categories of workmen to whom the award of the Tribunal is applicable.*"

706. In the statement of demands relating to scales of pay for different categories of employees made on their behalf, by the All India Bank Employees' Association, it is practically admitted that accountants, supervisors etc., are doing work of a supervisory and controlling nature. Although there are thousands of accountants working in banks, it has not been established that even a fair percentage of such employees want to be put into the category of workmen. During the proceedings, if I mistake not, on an enquiry being made whether there were present in the Court members of Employees' Unions who were accountants, I do not think more than a couple of them stood up. Moreover, the offer made on behalf of bank by Mr. Captain, to send out a circular giving choice to accountants, supervisors and others on whose behalf, the workmen are making this demand, to opt for one class or the other, appears to me to be very fair and reasonable. At the same time its rejection by the employees appears to me unreasonable. Unless we give a definite directive in regard to the treatment of accountants, supervisors etc., I do not see how we can stand in the way of banks issuing such circulars and asking the employees concerned to give a definite reply within a certain reasonable period whether or not they want to be treated as clerks or officers. Of course, once they make their decision they should not be allowed to change their category. As, however, the issue has been raised before us, it has been thought desirable to give our directive in this matter. My colleagues direct that accountants etc., be treated as workmen for the purposes of this award. I differ.

707. It is generally agreed that this matter rests primarily upon the nature of work entrusted to such persons. When Mr. Justice Bind Basni Prasad agrees that where the duties and responsibilities of an employee are like those of an Officer, as, I think, is the case with banks generally, he is an Officer.

708. We were informed by Mr. Daphlary, representing the Bank of Baroda, that an Accountant in every branch of the bank is next to the Manager, and it is the former, who, in the absence of the latter, performs the duties of the Manager. Even otherwise, as a rule, an Accountant is a person, more particularly in a bank, whose duties are of a supervisory and controlling nature. He is not only responsible for seeing that accounts are properly maintained, but also he is given power with regard to various other important matters, including sanctioning advances within certain limits, signing of drafts, cheques, share transfer forms, grant of leave in most cases, etc.

709. Also, it is held that a workman on his promotion to a supervisory post, ceases to be a workman, and should automatically cease to have the monetary and other benefits available to a workman. Thus in the Ford case, it is stated "When a workman is promoted to the post of supervisory nature, he ceases to be a workman, and must forfeit any benefit granted to workmen as such. The choice lies with him. He can either accept the promotion and lose the benefits granted to workmen, or refuse the promotion and retain the benefits. He cannot have it both ways". [Vide 1951 (2) L.L.J. page 231, at page 234]. It is also clear that the distinction between the workman and another doing work of a supervisory nature is not one of degree, but of class. This view was supported in the award relating to the Hindustan Co-operative Insurance Society Ltd. [vide 1952 (1) L.L.J. 230].

710. It is also held that it is not necessary that an Officer must only do work of a supervisory and controlling nature; sometimes, he may have also to do some work of more or less clerical nature.

711. It appears that the view held by Shri Bind Basni Prasad, based upon the conditions prevailing in certain banks in U.P. and which has been upheld by the Labour Appellate Tribunal that accountants should not be treated as officers is due to the impression that accountants are persons who merely keep accounts. People doing such work in large concerns are called account clerks and not accountants. No distinction appears to have been made in the above between such clerks and accountants.

712. The Sen Tribunal held that all persons whose salaries were up to Rs. 500/- per month were entitled to the benefit under the Award. With due reference to the view of the said Tribunal, I would submit that the formula suggested does not seem to be based upon any sound principle. It has been laid down by a number of tribunals, as in the Ford case above, that it is the character of work done which alone should determine the status of the employee.

713. There may be, however, some cases in which an accountant in a bank may not be treated as an officer. Also, there may be cases where accountants, superintendents, etc., do not draw a high salary, and would like to be classified as workmen and thus have the benefits of our Award. It is, however, extremely difficult, if not impossible, to lay down any general rule which will apply to all such cases. In the circumstances, I think Mr. Captain's formula, to which I have referred above, and with which I agree, provides for such marginal cases, i.e., for accountants, supervisors etc., who elect to be classed as workmen.

SECTION VIII.—*Issue No. 5—"Bonus including the qualifications for eligibility and method of payment."*

714. I am in agreement with the views of my colleagues in this regard, except in the matter of eligibility, which I will make subject to a minimum period of service. I think that an employee must put in a minimum period of service to entitle him to claim bonus. To appreciate what I say, it is necessary to realise that bonus can hardly be considered as a deferred wage. If it is taken as a deferred wage it will necessarily rank for precedence over dividends. (*Vide: 1949 I.C.R. page 233: Jayashanker Mills, Ltd. and two others at Barsi vs. Their Employees*). The provision of minimum service as a condition for a claim to bonus is dictated by practical considerations also. In the case of a workman, whose basic pay is very small and who has put in service for a few days in the year for which bonus is declared, it would mean too much of trouble and expense for the bank to make calculations of the amount payable to him and also for the employee to claim and get it remitted to him, in case he happens to be in a small town or village.

715. In the case of most of the Awards known to me in this connection, a minimum period of service of 30 days is required to enable a workman to claim bonus. It is also probably for the same reason that the claim of casual labour for bonus was negatived in the case reported in 1950 (2) L.L.J. page 213 (*Management of Beedi Factories in Kalahasti, Chittoor vs. Their employees*). The Calcutta Bench of the Appellate Tribunal refused to interfere with that part of the award which laid down that only those workmen who had completed minimum thirty days' service would be entitled to bonus [*Vide: 1952 (1) L.L.J. 199 at page 203: Kashi Iron Foundry and others vs. Their workmen*]. I am therefore of the opinion that before an employee becomes entitled to claim bonus, he must have put in a minimum period of service of 30 days.

716. I also suggest that in case of misconduct on the part of an employee the management should be empowered to withhold as in case of the payment of gratuity (*vide* Section IX) the payment of bonus to the extent of half the amount payable to the extent of the financial loss to which the bank may be put on account of such misconduct, whichever is greater.

SECTION IX.—*Item No. 14: "Gratuity, including whether it should be compulsory or ex-gratia. Does the scheme recommended by Shri B. B. Singh for the United Provinces in his award need revision?"*

717. I think it desirable that two retirement benefits—(1) Provident Fund and (2) Gratuity or Pension—may be given. But, I do not quite agree with the views of my colleagues that the provision for the two benefits, as in the Award, should be made an absolute one. It is likely that the financial capacity of some of the banks may not be such as to justify their meeting claim for the liability under both the benefits. I have my doubts, therefore, regarding the advisability of making both the benefits compulsory. Here again, as everywhere else, the determining factor should be banks' capacity to pay. The claim for gratuity, as shown in the awards referred to below, is not always allowed, mainly on the ground of the financial burden involved.

"I agree with the association that the Provident Fund, Pension or Gratuity are regarded as usually alternative retiring benefits and the workman should be entitled to claim only one kind of retiring benefit". [*Vide* Jute Presses of Cossipore and Cossipore Jute Press Workers' Union—1951 (2) L.L.J. 527 at Page 534].

"Payment of gratuity is no doubt now considered to be a desirable retirement benefit and one which might be awarded if it is otherwise possible to do so. But the claim cannot be deemed to be an absolute one and it must be considered having regard to the employer's financial capacity. If therefore the employer is unable to bear the burden that might be imposed by the granting of this benefit either by itself or as a result of other financial burdens that might be imposed on the employer then the Tribunal may well decline to award gratuity in a given case". (Vide Western India Automobile Association, Bombay V. Workmen employed under it—1950, I.C.R. Page 835).

"Before a scheme of gratuity can be sanctioned the Tribunal has to satisfy itself of the capacity of the particular concern to bear the burden that might be imposed on it by a scheme of gratuity.....No doubt it is desirable that a scheme of gratuity should be introduced in addition to the Provident Fund but that can be only when the concern can afford to bear the burden, and as I am satisfied that this Company cannot in the present state of its growth and development bear this burden, I think the Union would do well to put off the demand for introduction of gratuity and revision of the Provident Fund Rules both for its monthly rated employees and its daily rated staff to a future date when the Company's financial position becomes stabilised". [Vide Indian Standard Metal Co. Limited V. Workmen (Monthly Rated Staff) employed under it—1949 I.C.R. 496 at Pages 508 and 509].

718. In view of these pronouncements and the fact that we have provided for a compulsory scheme of provident fund on the basis of one month's salary per year of service to be contributed by the employer, which will enable a workman in the clerical grade to have at the credit of his account a sum of roughly about Rs. 30.087 if he joins service in A class bank in Area I, at the age of 18 years and retires at the age of 55 years based on the scale proposed by my colleagues, even if no account is taken of any allowances such as officiating allowance, etc. It would not be proper nor fair to the banking industry. I think to overburden it. While, therefore, I am willing to stretch a point in favour of the employees and am agreeable to compel the banks to provide for both the retirement benefits I suggest these benefits should be subject to the following modifications of the scheme proposed by my colleagues:

(1) In no case of A class banks the amount of gratuity should exceed 15 months' pay.

(2) In the case of banks in Group B, the rate should be reduced from one month's pay to $\frac{1}{4}$ th of a month's pay for each completed year of service and the maximum should be limited to ten months' pay.

(3) Similarly in the case of banks in groups C and D the rate should be reduced to $\frac{1}{4}$ th of a month's pay for each completed year of service with a maximum of six months' pay.

(4) In the case of voluntary retirement or resignation of an employee, there must be not less than 15 years' continuous service to entitle a person to claim gratuity. Justice Divatia's Award the rules of the Reserve Bank of India and of the Government of India in this regard require the same period of service.

(5) In the case of termination of service of an employee by a bank in group A, he should be paid on the basis of $\frac{1}{4}$ th of a month's pay for each completed year of service subject to the condition that he puts in at least 10 years' continuous service. After fifteen years' service however, a workman should be entitled to 15 months' salary.

719. I am unable to support my colleague's view that wherever the existing schemes of gratuity in banks are more favourable to the employees than the one laid down by us benefit of such schemes with be continued to be enjoyed by the employees. These schemes of gratuities are generally on *ex-gratia* basis and are subject to certain conditions. It does not seem quite fair to insist upon the banks to continue to give gratuity on the basis of existing scales if they are more favourable to the employees than under our scheme and at the same time to compel them to remove the attendant conditions such as that of not entering in the service of a competitive bank without previous permission of the employers, more particularly as it has been stated before us that in only rare cases such conditions are actually enforced. As stated elsewhere, the option to be given to the employee should be for both the retirement benefits and not in respect of each of them separately.

720. Although we are rejecting the demand of workmen to give retrospective effect in this connection and in spite of the fact that so far as I know there is no

earlier award which gives such retrospective effect, the additional gratuity proposed by my colleagues really amounts to giving such retrospective effect. Surely, if the financial condition of some banks in the past did not enable them to provide for their employees benefits of provident funds probably because of the banks' inability to bear the burden, it is difficult to justify the imposition of this additional burden for the years gone by. The financial position of a number of banks particularly those which are not in Class I, even to-day is not such as to bear this additional burden which this Award seeks to place on them.

721. There is another important matter in which I do not see eye to eye with my colleagues i.e., in regard to the withholding of gratuity for misconduct. My colleagues limit this power only to cases resulting in financial loss to a bank and only to the extent of such loss. In this connection, they have referred to the decision of the full court of the Labour Appellate Tribunal, consisting of Shri J. N. Muzumdar, Shri R. C. Mitter, Shri K. P. Lakshmana Rao, Shri G. P. Mathur and Shri F. Jeejeebhoy, in a case relating to the textile industry in Bombay, wherein under this decision the condition inserted by the lower tribunal that bonus could be withheld in the case of employees who had been dismissed for misconduct was deleted. It may be observed that the Full Bench decision relates to Textile Industry in Bombay. I do not think that the two benefits viz. bonus and gratuity are on the same footing or that the two industries Textile and Banking are alike. For instance, a bank employee may be guilty of misconduct which may result in no direct financial loss to the bank, but which may indirectly affect the bank very adversely. I need not emphasise the implications of loss of credit to a bank. Thus, if an employee of a bank goes about talking against its stability, it may bring about a crisis, which would not only affect the bank concerned but in certain cases other banks also. The credit of a bank is something, the loss of which cannot be measured in terms of money. The loss also cannot be easily made up. It may well nigh be irreparable. I think, therefore, a special responsibility, in this regard, rests on bank employees. There is yet another reason why I am not inclined to adopt the view of the full bench referred to above as a different view was taken in later decisions, for example in Army and Navy Stores Ltd. Bombay V. Their Workmen. (L.L.J. 1951 Vol. II Page 31). Therein the Bombay Bench consisting of Shri K. P. Lakshmana Rao and Shri F. Jeejeebhoy both of whom were members of the full bench referred to above observed as follows: "As regards the conditions governing the grant of gratuity the adjudicator below has stated that gratuity will not be payable to any employee who is dismissed for gross misconduct. We see no reason why the word 'gross' should be introduced. We would omit the word 'gross' from condition (1)". Here the need for penalising an employee for his misconduct is realised. In a later case L.L.J. 1952 Vol. I Page 35 (Tata Oil Mills Co. Ltd. V. Their Workmen), the same bench held that when an employee was dismissed for misconduct he was not entitled to gratuity. I prefer to follow these two earlier decisions rather than the latest decision reported in 1953 (1) L.L.J. 238 which has been cited by my colleagues. In this connection, attention is invited to the rules of the Reserve Bank of India and the rules of the Union Bank of India, the latter having been recently approved by us, and these reserve the power to employers to refuse to grant gratuity in cases of misconduct. Mr. Justice Harshadbhai Divatia also in his award laid down that no gratuity was to be paid to any employee dismissed for dishonesty or misconduct. I think the Central Government Conduct Rules also reserve power to Government to withhold pensions and gratuity in cases of misconduct on the part of their employees. The Bombay Civil Services Rules also provide for the withholding of gratuity or pension in cases of servants, who are dismissed for misconduct as will be seen from the rule given below: "No gratuity or pension may be granted under Sections II and III if a Government Servant was dismissed or removed for misconduct, insolvency or inefficiency. Compassionate grants may, however, be made under these sections in accordance with the Bombay Civil Services Rule 274".

722. I am, therefore, against restricting the power of withholding the gratuity only to cases of misconduct resulting in direct financial loss to a bank and secondly to the withholding of the gratuity only to the extent of such loss for the reasons stated above. However I think that this power of a bank may be restricted to the extent of half the amount of gratuity permissible under the rules, unless the amount of financial loss exceeds the said amount. This will safeguard the interests of both employees as well as employers.

SECTION X.—Item No. 28: "*Travelling allowance, conveyance allowance, halting allowance and joining time on transfer.*"

723 I am unable to see the reason for my colleagues' direction requiring banks, irrespective of their class, to pay every employee in the clerical grade, who is transferred from one place to another, and whose emoluments, including dearness

allowance, and special house rent allowances are even below Rs. 200 1½ second class fare for himself and further second class fares for all the eligible members of his family. The demand of employees in this regard before the Sen Tribunal was that the travelling allowance on transfer should be on the Government scale or on the more generous scale in force in the Reserve Bank of India (para 331 of the Sen Award). According to the Travelling Allowance Rules of the Government of Bombay, only persons who draw not less than Rs. 200 a month as their basic salary are entitled to travel in second class. In the case of other members of the clerical staff, drawing less than Rs. 200 per month second class train fare is permitted only if there is no Inter Class and provided that their basic salary is not less than Rs. 100 per month, otherwise they can claim only 1½ times the fare of the lowest class. As a rule, bank clerks drawing even Rs. 200 or more do not actually travel in second class when they have to travel on their own account. Further, it is laid down in the Award that bank employees will be required to satisfy the management that they have actually travelled in second class and in case of their failure to do so, they will not be entitled to draw on the above basis. It means that they cannot claim second class fare unless they actually travel by that class. This direction in our Award means that even bank clerks whose total emoluments may be less than Rs. 100 in which category Poddars, Collecting Sircars, Money-testers and Gollas are being placed under our Award and who ordinarily cannot afford to travel except in the lowest class are expected to travel in second class, by rail or by steamer. Such concessions for travel by second class have also to be viewed in the context of the recent announcement by the Railway authorities that, in future, second class will be the highest class on Indian Railways except in the case of some sections on which air-conditioned coaches may be run. I do not think that it is either in the interests of bank employees of those of the country in general and commercial and industrial concerns in particular, to raise the standard of travelling for even junior clerks all at once to the highest class on the Indian Railway without raising the standard of living in other directions. I am, therefore, of the opinion that the following rules of the Government of Bombay should be followed by us in this connection.

GOVERNMENT OF BOMBAY

Mileage Allowance for journeys by Rail:—

- | | |
|---|---|
| (a) II Grade
Pay Rs. 200—Rs. 750 | 1½ fare of II class. If the line provides no II class, 1 fare of highest class and ½ fare of II class. |
| (b) III Grade
Pay below Rs. 200 excluding Government servants in inferior service. | (i) 1½ fare of Inter class.
(ii) If travelling on railway with no inter class—
(a) where there are two classes; 1½ fare of lower class; and
(b) where there are three classes, 1 fare of II class and ½ fare of III class if his pay is not less than Rs. 100; and
1½ fare of III class, if his pay is less than Rs. 100. |
| (c) IV Grade | 1 fare of lowest class. |

NOTE : When only one class is provided on a railway on all trains Government servant is allowed fare of that class and extra fare to be calculated as follows:—

I Grade	..	I Class
II Grade	..	II Class
III & IV Grade	..	III Class

Transfer:—

Government servant is entitled to following concessions for a journey on transfer:—

- (i) Three fares of class to which he is entitled;
- (ii) One fare for each adult member of his family and ½ fare for each child if they accompany him.

724. I do not mind the comparatively high rates of daily allowance proposed in the Award as even the recently enhanced rates of daily allowance for Government servants do not appear to be quite adequate.

SECTION XI.—Item No. 7: "Subsistence allowance during periods of suspension".

725. I agree with my colleagues that during the period of suspension an employee should receive a subsistence allowance, which should not be less than 1/3rd of the pay and allowances which he would, but for the suspension, have drawn. If for no fault of an employer the investigation by an outside authority, such as the police is not completed, and an employee is not put on trial within a year of the commission of the offence the bank should be authorised to deal with him as if he had committed an act of gross misconduct or of minor misconduct as recommended in para 319 sub-para (3) of the Sen Award.

726. I am also unable to see the reason for the increase in the subsistence allowance from 1/3rd to 1/2 after the first three months of the employee's suspension, particularly when the delay in the completion of the enquiry has nothing to do with the bank. While one would like to take a sympathetic view of the condition of a person so suspended, I see no reason why an employer should be penalised for no fault of his and be required to pay a higher subsistence allowance after the first three months of the period of suspension. If, however, the employee is not at fault in the prolongation of the enquiry the employer should certainly increase the rate of the allowance to 1/2 or more of the pay and allowance of the employee concerned.

SECTION XII.—Item No. 22—"Recognition of the All India Bank Employees' Association and/or its constituent units".

727. I am inclined to agree with the contention of the banks that the subject-matter of this issue does not come under the category of industrial disputes. Shri Divatia J. before whom such a demand was made rejected it and observed as follows:—

"Lastly there is an un-numbered demand in the beginning of Annexure 'A' which says that the management of each bank should recognise the union of clerks in that bank. As the Bombay Industrial Disputes Act has been applied to the banks in Bombay the recognition of the union depends on the provisions of that Act being complied with. It is conceded on behalf of the employees that the unions have not fulfilled the necessary conditions prescribed for recognition under the Act. But their demand is that this Court should make an exception in the case of the unions and the management should be compelled to recognize them even though they cannot be recognized under the law. I do not think that this demand is justified. If the employees of the banks wish to have the advantage of certain provisions of the Bombay Industrial Disputes Act they should be governed by all the provisions and it would not, in my opinion, be proper to create an undesirable precedent of allowing the banks to recognize compulsorily unauthorised unions. If the union is strong enough, it would not be difficult to get recognition under the more lenient provisions of the new Bombay Industrial Relations Act which is coming into force in a short time. This demand is therefore rejected."

Even the Sen Tribunal by majority refused to give recognition either to the All India Bank Employees Association or to the U.P. Bank Employees' Association. The Labour Appellate Tribunal in the case of *Dyer Makin Breweries Ltd., Lucknow V. The Distillery Breweries Workers' Union, Lucknow* [1951 (1) L.L.J. 183] allowed the appeal of the said company and set aside that part of the order of the Adjudicator which had merely recommended and not directed, as has been done by my colleagues, the recognition of the union by the employer. This view has been re-affirmed by a number of adjudicators.

728. Supporting the view put forward by the banks a scheme for recognition of trade unions has been laid down in the Indian Trade Unions (Amendment) Act 1947 (Act XLV of 1947) as a result of which new Chapters III A and III B have been inserted in the Indian Trade Unions Act of 1926. Chapter III A regulates the conditions required for the recognition of unions and the rights resulting therefrom under certain circumstances. Chapter III B deals with unfair practices. According to the banks it does not appear to be reasonable to give effect only to a part of the scheme and ignore the rest. The scheme lays down the conditions for recognition and the necessary machinery for its withdrawal under certain circumstances. The banks have argued that, when the Legislature thought it best to leave it to the Government to bring this Chapter into operation as and when it considers necessary to do so, it does not seem proper on the part of this Tribunal to direct the recognition of the All India

Bank Employees' Association without providing the proper machinery relating to all connected matters. It would amount to compelling the banks to recognize the unions and conferring on them the rights as under Section 28F of the said Act, without requiring the unions to satisfy the conditions laid down for their recognition and without laying down the provisions relating to the necessary machinery for withdrawal of such recognition. During the proceedings, an enquiry was made from the Counsel appearing on behalf of the workmen whether such a demand made by the workmen before any other Tribunal had been granted. The reply given was in the negative. The recognition of unions of bank employees as directed in my colleagues' Award has no legal basis, and I think we are not competent to take initiative in this matter which, under the legislation has been left with Government only.

729. Another reason in support of the banks' view is that the All India Bank Employees' Association is not a registered body. It has even failed to furnish the Tribunal with copy of its accounts which it was required to do and which their Counsel Mr. Chari promised to file. Moreover, the rules of this Association do not provide for the procedure for declaring a strike.

730. While it is true that a couple of banks such as the Imperial Bank of India and the Chartered Bank of India, Australia and China carry on correspondence with staff associations in regard to certain matters, I do not think such action on the part of these banks can be put on a par with legal recognition of the All India Bank Employees' Association. Banks have already stated that they are not prepared to recognize such unions unless they are required to do so as and when Chapter III A of the Trade Unions Act of 1926 referred to above. For instance, operation or un/less the unions limit their membership to the staffs of the respective banks. I think that the banks are right in their stand in this regard.

731. Coming to the practical side of the direction I am unable to say how it can be carried out by the banks, as for instance, some sections of the employees of the Imperial Bank of India are members of a union affiliated to the All India Bank Employees' Association, some of the Indian National Trade Union Congress, and a large majority of them are members of the Imperial Bank of India Staff Associations. This view is supported by the fact that three different Counsel argued the case on behalf of the employees of the Imperial Bank of India; Shri Phadke on behalf of the Staff Associations (Bombay Circle, Poona and Madras Circle, Mr. Dudhia appeared on behalf of Indian National Trade Union Congress, which represented the case of the members of the staff of the Imperial Bank of India working in Ahmedabad, Baroda, Sholapur, Bombay and other places, and Mr. Chari represented some of the employees in Calcutta. It is further to be noted that similar difficulty is bound to arise in the case of the Punjab National Bank Ltd., the employees of which belong to two different unions viz. the Punjab National Bank Workmen's Union which is said to be sponsored by the management of the Bank and the All India Punjab National Bank Employees' Federation, Delhi, both of which were represented before us during the proceedings. In view of what is stated above, I am unable to support the directive given by my colleagues. While I am in favour of collective bargaining between the management on the one hand and the employees on the other, I do not see how that can work effectively without the necessary machinery for its working as is envisaged in the Chapter III A of the Trade Unions Act of 1926 referred to above. For instance, unless a union is able to deliver the goods, that is to say, to see that any settlement brought about or agreed upon between the union and the employers will be acted upon by the employee, the mere recognition of the union by an employer is not likely to do any good. On the other hand, it is likely to add to the number of disputes between banks and their employees. But as I indicated above my colleague's directive to accord recognition to the unions of bank employees named therein appears to me bad in law, which is the main handicap I find in agreeing with them.

SECTION XIII.—Item No. 8—“*Right to existing terms of service where they are more liberal than those of the awards of this Tribunal.*”

732. I agree with my colleagues that the claim of bank employees to pre-existing terms, if they are more liberal than those under our Award should not be brushed aside. I have, however, some difficulty in subscribing to their view that those banks which are at present paying larger salaries etc. should not only continue to pay them till the difference is absorbed by future increments in our scale, but also should provide for the additional benefits, as under our Award, which they may not be doing at present as in the case of retiring benefits. In this connection, attention is invited to Ex. B. 133, from which it will be seen that the National City Bank of New York paid, in the form of salaries and allowances,

to the clerical staff of its Bombay branch for the month of June 1952 Rs. 30,877 as against Rs. 20,613 payable under the Sen Award. It may, however, be remembered that this Bank has not been paying any bonus and at least a part of the difference in the figures given above may be accounted for the absence of bonus. Under my colleagues' Award the said Bank will have to continue to pay to its employees, even after the Award comes into operation, not only their present higher emoluments but also to provide for additional benefits given under our Award, with the result that their labour cost will go still higher and thus place them at a disadvantage compared to their competitors. Banks have generally contended that if any option is to be given to workmen to select either the one or the other set of terms, it must be in relation to all the terms. There appears to be some force in banks' argument that if any particular employer, not compulsorily required at present to make any definite contribution to his employees' provident fund and/or grant pension or gratuity, has been making such contribution at a higher rate, as certain banks actually do, than laid down under our Award, he should not be obliged to shoulder the burden of the additional retiring benefit, for example gratuity while being compelled to contribute at the higher rate towards the employees' provident fund. I agree with my colleagues' that the total emoluments, salary, dearness allowance and house rent allowance, should be placed in our group but I am unable to see why the two retirement benefits also should not form a group distinct from other monetary benefits.

733. I shall now refer to another Bank which, I think, will be penalised under my colleague's directive. The Hongkong and Shanghai Banking Corporation has been contributing as much as 20 per cent. of the salary of an employee as its contribution towards his provident fund which percentage is nearly 2½ times as much as that contributed by any of the big Indian Banks to its employees' provident fund. It was contended on behalf of the Bank that it was contributing generously towards the provident fund of its employees, because it was not required to provide compulsorily any gratuity or pension. In my opinion, it does not, therefore seem quite fair to allow its employees to continue to enjoy the present very generous benefit provided by the bank, in respect of the provident fund and at the same time permit them to claim gratuity under our Award, which in other wards, would mean giving the employees "best of both the worlds". What my suggestion amounts to is that, if these two banks, namely, the National City Bank of New York and Hongkong and Shanghai Banking Corporation are to be compulsorily brought under the two retiring benefits as provided in the Award, they should be allowed to contribute according to the standard rates laid down in the Award for similar classes of banks, i.e. 'A' class banks. It is unfair, for example, to call upon the Hongkong and Shanghai Banking Corporation to pay 20 per cent. of the employees' salaries towards provident fund as well as provide for gratuity. If the Bank is to continue to pay 20 per cent. it might be free from its obligation in respect of gratuity, option being given to employees either to accept the provident fund as at present provided by the banks, or to forego the advantage of the present liberal provident fund and have in lieu of this, both the provident fund and the gratuity at the rates in the Award. I think this is a fair proportion. A similar reasoning more or less applies in regard to the National City Bank of New York, which also pays a higher provident fund.

734. For the Reasons explained above and in view of the fact that we are allowing all the banks except the Hongkong and Shanghai Banking Corporation and the National City Bank of New York, to reduce their rates of contribution to their employees' provident fund if they happen to be higher than those laid down in our Award and have uniform rates of provident fund contribution of 8.1/3 per cent. for banks in classes 'A' and 'B' and 6½ per cent. in case of banks in classes 'C' and 'D', it does not seem proper to accord extra-favourable treatment to the employees of these two banks. Such a course would not seem to be sound in principle, nor would, I submit, appear to be politic. We may be charged with discrimination against these two foreign banks, and we must avoid doing anything which has even a semblance of hampering the retention or flow of foreign capital in the country. Further, such a course of action will militate against the country's policy generally in this regard. It is no secret that the authorities are doing their best to do away with such handicaps as might discourage the flow of foreign capital into the country and are offering also positive inducements to that end. Further my colleagues' directive, in this regard, seems to me to be contrary to the general principle laid down in a number of other awards and which principle has been approved by the Labour Appellate Tribunal.

BOMBAY;

(Sd.) M. L. TANNAN, Member.

The 20th March, 1953.

1 M. of Lab.

APPENDIX I
MINISTRY OF LABOUR
NOTIFICATION

New Delhi, the 5th January, 1952

S.R.O. 35.—In exercise of the powers conferred by Section 7 of the Industrial Disputes Act, 1947 (XIV of 1947), and in supersession of the notification of the Government of India in the Ministry of Labour S.R.O. 1078, dated the 17th July 1951, the Central Government hereby constitutes an Industrial Tribunal ["to be called the All India Industrial Tribunal (Bank Disputes)"] consisting of the following members, for the adjudication of industrial disputes concerning banking companies, namely,

1. Shri S. Panchapagesa Sastry, Retired Judge of the High Court of Judicature, Madras—*Chairman*.

2. Shri M. L. Tannan—*Member*.

3. Shri V. L. D'Souza, Professor of Economics, Maharaja's College, University of Mysore—*Member*.

[No. LR-100(4)/I.]

[The words in square bracket were inserted by notification No. S.R.O. 470 dated 8th March 1952.]

New Delhi, the 5th January, 1952

S.R.O. 36.—WHEREAS the Central Government is of opinion that an industrial disputes exists between employers and workmen in relation to some of the banking companies specified in Schedule I;

AND WHEREAS the Central Government considers it desirable to refer for adjudication the matters specified in Schedule II which are either matters in dispute or matters connected with, or relevant to, the said dispute;

AND WHEREAS the Central Government is further of opinion that the said dispute is of such a nature that the other banking companies specified in Schedule I are likely to be interested in, or affected by, that dispute and that it is desirable to include also those banking companies in that reference;

NOW, THEREFORE, in exercise of the powers conferred by Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers to the Industrial Tribunal constituted by the notification of the Government of India in the Ministry of Labour No. LR/100(4)/I, dated the 5th January 1952, for adjudication the matters specified in Schedule II (being either matters in dispute or matters connected with, or relevant to, the dispute), as between employers and workmen in relation to all the banking companies specified in Schedule I.

SCHEDULE I

List of Scheduled Banks having branches in more than one State.

Name of Bank	Address
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GROUP A

(i) *Banks having deposits of over Rs. 50 crores*

- | | |
|---------------------------------------|--|
| 1. Bank of India Ltd. | Mahatma Gandhi Road, Fort, Bombay. |
| 2. Central Bank of India Ltd. | Esplanade Road, Fort, Bombay. |
| 3. Habib Bank Ltd. | Dada Manzil, Mahomedali Road, Bombay. |
| 4. Imperial Bank of India | 3, Strand Road, Calcutta. |
| 5. Punjab National Bank Ltd. | 8, Underhill Road, Civil Lines, Delhi. |

(ii) *Exchange Banks*

- | | |
|---|---------------------------------------|
| 1. Bank of China | 13, Old Court House Street, Calcutta. |
| 2. Chartered Bank of India, Australia and China | 4, Netaji Subhas Road, Calcutta. |
| 3. Comptoir National D'Escompte de Paris | Bombay House, Bruce Street, Bombay 1. |
| 4. Eastern Bank Ltd. | 14, Netaji Subhas Road, Calcutta. |
| 5. Grindlays Bank Ltd. | Mint Road, Bombay. |
| 6. Hongkong and Shanghai Banking Corporation | 31, Dalhousie Square, Calcutta. |
| 7. Lloyds Bank Ltd. | 29, Netaji Subhas Road, Calcutta. |
| 8. Mercantile Bank of India Ltd. | Bombay. |

Name of Bank	Address
9. National Bank of India Ltd.	19, Netaji Subhas Road, Calcutta.
10. National City Bank of New York	293, Hornby Road, Fort, Bombay.
11. Nationale Handelsbank N. V.	Royal Exchange Place (East), Calcutta.
12. Netherlands Trading Society Ltd.	28, Pollack Street, Calcutta.

GROUP B

Banks having deposits between Rs. 15 and Rs. 50 crores

1. Allahabad Bank Ltd.	6, Royal Exchange Place, Calcutta.
2. Bank of Baroda Ltd.	Baroda.
3. Hyderabad State Bank	Hyderabad (Deccan).
4. Indian Bank Ltd.	Indian Bank Buildings, Madras.
5. United Bank of India Ltd.	4, Cliveghat Street, Calcutta.
6. United Commercial Bank Ltd.	6-D, Lindsay Street, Calcutta.

GROUP C

Other Banks having deposits less than Rs. 15 crores

1. Bank of Bihar Ltd.	Patna.
2. Bank of Bikaner Ltd.	Ganga Niwas, Public Park, Bikaner.
3. Bank of Indore Ltd.	1, Prince Yeshwant Street, Indore City.
4. Bank of Jaipur Ltd.	Tripolia Bazar, Jaipur, City.
5. Bank of Maharashtra Ltd.	Laxmi Road, Poona City.
6. Bank of Mysore Ltd.	Avenue Road, Bangalore.
7. Bank of Rajasthan Ltd.	Udaipur (Rajasthan).
8. Bharatha Laxmi Bank Ltd.	Masulipatam (Madras).
9. Canara Bank Ltd.	Lighthouse Hill, Mangalore.
10. Canara Banking Corporation Ltd.	Udipi (South Canara).
11. Canara Industrial & Banking Syndicate Ltd.	Udipi (South Canara).
12. Devkaran Nanjee Banking Coy. Ltd.	Devkaran Nanjee Buildings, Elphinstone Circle Fort, Bombay.
13. Gadodia Bank Ltd.	235, Kalbadevi Road, Bombay,—2.
14. Hind Bank Ltd.	9, Royal Exchange Place, Calcutta.
15. Hindustan Commercial Bank Ltd.	Kanodia Commercial Buildings, Birhana Road Kanpur.
16. Hindustan Mercantile Bank Ltd.	10, Clive Row, Calcutta.
17. Indian Overseas Bank Ltd.	United India Life Building, Esplanade, Madras.
18. Indo-Mercantile Bank Ltd.	Mattancherry, Travancore-Cochin.
19. Jodhpur Commercial Bank Ltd.	Jalori Gate, Jodhpur.
20. Laxmi Bank Ltd.	Akola (Madhya Pradesh).
21. Mercantile Bank of Hyderabad Ltd.	552, Sultan Bazar, Hyderabad (Deccan.)
22. Narang Bank of India Ltd.	Amritsar.
23. National Bank of Lahore Ltd.	31, Rajpur Road, Delhi.
24. National Savings Bank Ltd.	43-45, Apollo Street, Fort, Bombay.
25. Nedungadi Bank Ltd.	Kozhikode (Madras).
26. New Citizen Bank of India Ltd.	16, Apollo Street, Fort, Bombay.
27. Oriental Bank of Commerce Ltd.	Delhi.
28. Palai Central Bank Ltd.	Palai (Travancore-Cochin).
29. Pandyan Bank Ltd.	Tirumangalam (Mathurai District).
30. Punjab and Sind Bank Ltd.	45-A, Lytton Road, Dehra Dun.
31. Punjab Co-operative Bank Ltd.	Amritsar.
32. South Indian Bank Ltd.	Trichur (Travancore-Cochin).
33. Travancore Bank Ltd.	Trivandrum (Travancore-Cochin).
34. Travancore Forward Bank Ltd.	Kottayam (Travancore-Cochin).
35. Union Bank of India Ltd.	62-68, Apollo Street, Fort, Bombay.
36. United Industrial Bank Ltd.	7, Wellesley Place, Calcutta.
37. Vysya Bank Ltd.	467, Sri Krishnarajendra Road, Bangalore City.

Banks working under schemes of arrangements

38. Bank of Assam Ltd.	Shillong (Assam).
39. Lakshmi Commercial Bank Ltd.	Delhi.
40. Mahaluxmi Bank Ltd.	15, Clive Street, Calcutta.
41. New Bank of India Ltd.	Khoti Ahata, Amritsar.
42. Prabhat Bank Ltd.	719, Chandni Chowk, Delhi.
43. Traders' Bank Ltd.	13, Rajpur Road, Delhi.
44. Tripura Modern Bank Ltd.	102/1, Netaji Subhas Road, Calcutta.

Name of Bank

Address

GROUP D

Banks which have suspended payments, or are granted moratorium or are prohibited from accepting fresh deposits

1. Calcutta National Bank Ltd. . . . P-2, Mission Row Extension, Calcutta (Under Moratorium).

LIST OF NON-SCHEDULED BANKS HAVING BRANCHES IN MORE THAN ONE STATE

(i) Banks having deposits less than Rs. 15 crores and working normally

1. All India Bank Ltd. 58, Netaji Subhas Road, Calcutta.
2. Ambat Bank Ltd. Chittur, Travancore-Cochin.
3. Bharat National Bank Ltd. Chakradharpur, Bihar.
4. Bishnupur Bank Ltd. Bishnupur, Dist. Bankura (West Bengal).
5. Catholic Bank of India Ltd. Changanachory (Travancore-Cochin).
6. Catholic Syrian Bank Ltd. Trichur (Travancore-Cochin).
7. Central Mercantile Bank Ltd. Monghyr, Bihar.
8. Chaldean Syrian Bank Ltd. Trichur (Travancore-Cochin).
9. Cochin Commercial Bank Ltd. Cochin (Travancore-Cochin).
10. Cochin Nayar Bank Ltd. Trichur (Travancore-Cochin).
11. Cochin National Bank Ltd. Trichur (Travancore-Cochin).
12. Cochin Union Bank Ltd. Trichur (Travancore-Cochin).
13. Depositors Bank Ltd. Jullundur Cantt.
14. Dhanalakshmi Bank Ltd. Trichur (Travancore-Cochin).
15. G. Raghunathmul Bank Ltd. Abid Road, Hyderabad (Dn.)
16. Hindu Bank Karur Ltd. 67, New Kutchery Street, Karur (Dist. Tiru-chirappalli).
17. Indian Insurance and Banking Corpora-tion Ltd. Trichur (Travancore-Cochin).
18. Indian Relief Bank Ltd. 1/99, Godown Street, G. T. Madras.
19. Jayalakshmi Bank Ltd. Old Court Road, Mangalore.
20. Janjira Bank Ltd. Bazar Road, Janjira Murud, Dist. Colaba (Bombay).
21. Karnataka Bank Ltd. Dongerkeri Street, Mangalore.
22. Maharashtra Apex Bank Ltd. Ramjaneya Building, Koldapet, Udipi (South Kanara).
23. Malabar Bank Ltd. Trichur (Travancore-Cochin).
24. Melarkode Bank Ltd. Sultanpet, Palghat (Madras).
25. Mannar Bank Ltd. Mannar (Travancore-Cochin).
26. Model Bank of India Ltd. Rash Behari Avenue, Calcutta.
27. Morvi Mercantile Bank Ltd. Morvi (Saurashtra).
28. National City Bank Ltd. Jullundur City (East Punjab).
29. Orient Bank of India Ltd. 135, Clive Street, Calcutta.
30. Prabhakara Bank Ltd. Moodabidri, South Kanara (Madras).
31. Safe Bank Ltd. Itwari, Nagpur City.
32. Salem Bank Ltd. Bazar Street, Salem.
33. Sind National Bank Ltd. P.O. Box 59, Ajmer.
34. Thomcos Bank Ltd. Beach Road, Alleppy (Travancore-Cochin).
35. Tripura State Bank Ltd. Agartala (Tripura State).
36. Union Bank of Bengal Ltd. 8, Clive Street, Calcutta.
37. United Bank of Travancore Ltd. Palai (Travancore-Cochin).
38. Vijaya Bank Ltd. Kadri Road, Mangalore (South Kanara).

(ii) Banks working under Schemes of Arrangement etc.

1. Dass Bank Ltd. 14, Netaji Subhas Road, Calcutta. Working under a scheme of arrangement.
2. First National Bank Ltd. Chaura Bazar, Ludhiana Ditto.
3. Punjab and Kashmir Bank Ltd. Jullundur City Ditto.
4. Shillong Banking Corporation Ltd. Jail Road, Shillong, Assam Ditto.
5. Simla Banking and Industrial Co. Ltd. No. 1, Bank Building, The Mall, Simla. Ditto.

Name of Bank	Address	
6. Agricultural and Industrial Bank Ltd.	Sri Nivas, West Coast Road, Coondapur.	Suspended payment on 17th August, 1951.
7. Bank of Industries Ltd.	28, Strand Road, Calcutta	Action under Sec. 247 of the Indian Companies Act being taken.
8. Inland Bank Ltd.	13, David Joseph Lane, Calcutta.	Ditto.
9. National Central Bank Ltd.	10, Canning Street, Calcutta.	Ditto.
10. Overland Bank Ltd.	6, Clive Street, Calcutta	Ditto.
11. Provincial Bank Ltd.	6, Netaji Subhas Road, Calcutta.	Ditto.
12. Public National Bank Ltd.	78, Clive Street, Calcutta	Ditto.
13. Radiant Bank Ltd.	Clive Street, Calcutta	Ditto.
14. Associated Bank of India Ltd.	5 and 6, Hare Street, Calcutta.	Present position not known.
15. Bengal Express Bank Ltd.	53, Netaji Subhas Road, Calcutta.	Ditto.
16. Bengal Oriental Bank Ltd.	P-29, Mission Row Extension, Calcutta (Registered Office, Comilla E. Pakistan).	Ditto.
17. Bengal Union Bank Ltd.	278, Upper Chitpur Road, Calcutta.	Ditto.
18. Comilla Commercial Bank Ltd.	3, Commercial Buildings, Calcutta.	Ditto.
19. Loyal Bank Ltd.	29, Strand Road, Calcutta (Registered Office Chandpur, East Pakistan).	Ditto.
20. Sakti Bank Ltd.	156, Cross Street Calcutta	Ditto.
21. Sunrise Bank Ltd.	18, Bader Bagan Street, Calcutta (Registered Office Comilla, East Pakistan).	Ditto.
22. Surma Valley Bank, Ltd.	Sylhet	Ditto. (The Bank is in liquidation in Pakistan).
23. Sonapur Bank Ltd.	57, Netaji Subhas Road, Calcutta.	Present position not known.

SCHEDULE II

1. Scales of pay, including:—

- whether the remuneration of workmen and their periodical increment should be correlated to their efficiency and attendance, and
- whether, if basic scales are recommended, such scales of pay of particular categories should be uniform all over India and whether the difference in the cost of living of the various centres should be adjusted by the grant of compensatory allowances.

2. Dearness allowance to staff as well as pensioners. Can a portion of the dearness allowance be transferred to, and absorbed in, the basic wage? In particular can this be done in the case of banks in the United Provinces in respect of the allowance payable at the commencement of Shri B. B. Singh's award.

3. House rent allowance. If this allowance is payable, should it be paid to all workmen.

4. Other allowances (other than travelling allowance, conveyance allowance and halting allowance) payable, for example, education or children's allowance, washing allowance, hill allowance, fuel allowance, grain allowance, Poona Cantonment allowance, officiating allowance scarcity allowance, border allowance, local allowance and six-monthly accounting allowance.

5. Bonus, including the qualifications for eligibility and method of payment.
6. Whether income and professional taxes payable by workmen should be paid on their behalf by banks?
7. Subsistence allowance during periods of suspension.
8. Right to existing terms of service where they are more liberal than those of the awards of this Tribunal.
9. Should banks be classified into different categories for the purposes of this adjudication and if so, on what lines?
10. Categories of workmen to whom the award of the Tribunal is applicable.
11. In what manner and to what extent do the decisions of the Tribunal require modification in the case of workmen of banks under moratorium.
12. Rules for fitting the existing staff into the revised scales of pay.
13. Provident fund, including the rate of contribution and the rate of interest.
14. Gratuity, including whether it should be compulsory or *ex-gratia*. Does the scheme recommended by Shri B. B. Singh for the United Provinces in his award need revision?
15. Pension, including the question whether any pension scheme should be introduced in banks having Provident Fund and/or gratuity schemes.
16. Guarantee Fund.
17. Insurance against old age, sickness, death or injury from accident in the course of the discharge of duties.
18. Leave Rules.
19. Hours of work and overtime.
20. Medical aid and expenses.
21. Cash deposits, fidelity bonds and other securities to be furnished by staff including the question:—
 - (a) whether failure to furnish such security should operate as a ban on confirmation, and
 - (b) whether the scheme of security and guarantee introduced by the Punjab National Bank Ltd., is suitable.
22. Recognition of the All India Bank Employees' Association and/or its constituent units.
23. Method of recruitment, terms and conditions of service and procedure for termination of employment or for taking other disciplinary action.
24. Utilization of proceeds from fines.
25. Whether head cashiers or treasurers' representatives or any workmen who perform their functions are to be treated as Department Incharges.
26. Waiving of age restrictions for promotion to supervisory grades.
27. Policy regarding transfer of staff.
28. Travelling allowance, conveyance allowance, halting allowance and joining time on transfer.
29. Whether cash compensation is payable to staff of branches situated in Pakistan who have had to come away to India and have not been employed in the branches in India.
30. Should bank pensioners be entitled to accept employment after retirement with or without the permission of the banks from which they draw their pensions?
31. Absorption of Bharat Bank Employees in the Punjab National Bank Ltd. and their service conditions.
32. Rules regarding promotions.
33. Works Committee. Should they be established or not?
34. Standing orders regulating the conditions of service of staff and the procedure in making amendments to them.

ORDERS

New Delhi, the 31st March 1952

S.R.O. 635.—In exercise of the powers conferred by Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby directs that the following amendment shall be made in the Order of the Government of India in the Ministry of Labour No. S.R.O. 36, dated the 5th January 1952, namely:—

In Schedule II to the said Order the entry against Serial No. 31 shall be omitted.

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S NEELAKANTAM, Dy. Secy.

APPENDIX II

SECTION I

List of Regional and other Unions of Bank Employees which filed statements of Claims before the Tribunal.

Serial No.	State	Name of Union or Association	Place
1	Bihar	1. Bank of Behar Employees' Association	Patna.
		2. Bihar Provincial Central Bank of India Employees' Association	Muzaffarpur.
		(R)* 3. Gaya District Bank Employees' Association	Gaya.
2	Bombay	(R) 1. Ahmedabad Bank's Employees' Union	Ahmedabad.
		* 2. Allahabad Bank Employees' Union	Bombay.
		(R) 3. All India Bank Employees' Association	Bombay.
		* 4. Bank of Baroda Employees' Union	Bombay.
		* 5. Bank of Jaipur Employees' Union	Bombay.
		6. The Central Bank Employees' Union	Bombay.
		7. The Central Bank of India Ltd., Employees' Union, Karnatak Group	Hubli.
		8. Chartered Bank of India, Australia and China Employees' Union	Bombay.
		* 9. The Eastern Bank Ltd., (Bombay Branch) Employees' Union	Bombay.
		* 10. Federation of the Bank of India Staff Unions	Bombay.
		11. Grindlays Bank Staff Union	Bombay.
		* 12. Hongkong and Shanghai Banking Corporation Employees' Union	Bombay.
		13. Imperial Bank of India Indian Staff Association Bombay Circle	Bombay.
		14. Imperial Bank of India Staff Association (Bombay Circle)	Poona.
		15. Imperial Bank of India Staff Union	Surat.
		* 16. Indian Bank Employees' Union	Bombay.
		* 17. Laxmi Bank Employees' Union	Bombay.
		18. The Lloyds Bank Ltd., Staff Union	Bombay.
		19. National Bank of India (Bombay Branch) Indian Staff Union	Bombay.
		20. Nationale Handelsbank Employees' Union	Bombay.
		21. Punjab National Bank Workmen's Union, Bombay Unit	Bombay.
		(R) 22. The Sholapur District Banks Employees' Union	Sholapur.
		(R) 23. The Surat Bank Employees' Union	Surat.
		* 24. The UCO Bank Employees' Union	Bombay.
		* 25. United Bank of India Employees' Association	Bombay.
		(R) 26. Vadodra Rajya Bank Nokar Sangh	Baroda.
3	East Punjab	1. The Central Bank of India Employees' Union	Amritsar.
		(R)* 2. Punjab Bank Employees' Federation	Jullundur.
		3. Punjab Co-operative Bank Employees' Union	Amritsar.
		4. The Punjab National Bank Workmen's Union	Panipat.
4	Madhya Pradesh	1. Bank of India Ltd. Staff Union	Nagpur.
		2. The Laxmi Bank Ltd. Employees' Association	Akola.
		(R)* 3. Madhya Pradesh Bank Kamgar Panchayat	Nagpur.

Serial No.	State	Name of Union or Association	Place
5	Madras	* 1. Canara Bank Employees' Union	Madras.
		2. Central Bank Employees' Association	Mathurai.
		3. The Chartered Bank Indian Staff Association	Madras.
		4. The Commercial Employees' Association	Madras.
		5. The Imperial Bank of India Indian Staff Union (Madras Circle)	Madras.
		6. The Indian Bank Circars Employees' Union	Guntur.
		7. The Indian Circars Employees' Union	Vijayawada.
		* 8. The Indian Bank Employees' Union	Madras.
		* 9. The Indian Overseas Bank Employees' Union	Madras.
	(R)*	10. The Madras Provincial Union of Bank Employees' Union	Madras.
		11. The National Bank of India Employees' Union	Madras.
		12. The Nedungadi Bank Employees' Association	Kozhikode.
		13. The Punjab National Bank Staff Union	Madras.
		14. Salem Bank Employees' Association	Salem.
		15. The South Indian Bank Employees' Association	Madras.
	Uttar Pradesh	1. The Chartered Bank of India, Australia and China Employees' Union	Kanpur.
		2. Punjab National Bank Workmen's Union	Meerut.
	(R)*	3. U.P. Bank Employees' Union	Agra.
	(R)	4. U.P. Bank Employees' Union	Mirzapur.
7	West Bengal	*1. Allahabad Bank Indian Staff Association	Calcutta.
		2. The Bank of Baroda Ltd., Calcutta Staff Association	Calcutta.
		*3. Bank of Bikaner Employees' Union	Calcutta.
		*4. The Bank of India Ltd. Employees' Union (Calcutta Branches).	Calcutta.
		*5. Calcutta National Bank Employees' Association	Calcutta.
		*6. Central Bank of India Employees' Association, West Bengal	Calcutta.
		7. The Chartered Bank of India, Australia and China Local Staff Employees' Union	Calcutta.
		*8. The Eastern Bank Ltd., Calcutta Branch Indian Employees' Union	Calcutta.
		9. Grindlays Employees' Association	Calcutta.
		*10. The Hind Bank Employees' Union	Calcutta.
		*11. Hindustan Commercial Bank Employees' Association (Bengal Circle)	Calcutta.
		*12. Hindusthan Mercantile Bank Employees' Union.	Calcutta.
		*13. The Hongkong and Shanghai Banking Corporation (Calcutta Branch) Indian Staff Union	Calcutta.
		14. Imperial Bank of India Indian Staff Association	Calcutta.
		*15. Lloyds Bank Indian Staff Association (Calcutta Branches)	Calcutta.
		*16. The Mercantile Bank of India Ltd. Employees' Union	Calcutta.
		17. The National Bank of India Ltd., (Calcutta Branch) Indian Staff Union	Calcutta.
		*18. The National City Bank of New York Calcutta Branch Indian Employees' Association	Calcutta.

Serial No.	State	Name of Union or Association	Place
		19. Nationalc Handelsbank Employees' Union	Calcutta.
		20. Netherlands Trading Society (Calcutta) Employees' Union	Calcutta.
		21. The Punjab National Bank Employees' Union (West Bengal, Bihar and Orissa)	Calcutta.
		22. Punjab National Bank Workmen's Union (Calcutta Unit)	Calcutta.
		*23. United Bank of India Employees' Association	Calcutta.
		*24. United Commercial Bank Employees' Association	Calcutta.
8	Hyderabad . (R)	*1. The All Hyderabad Bank Employees' Association	Hyderabad-Dn.
		2. The Central Bank of India Employees' Union, Hyderabad-Dn. Group	Hyderabad-Dn.
		*3. The Central Bank of India Employees' Union	Jalna.
		*4. G. Raghunathmull Bank Ltd. Staff Association	Hyderabad-Dn.
		5. Hyderabad State Bank Staff Association	Hyderabad-Dn.
		6. Hyderabad State Bank Branch Staff Association	Nizamabad.
		*7. The Mercantile Bank of Hyderabad Ltd. Employees' Union	Hyderabad-Dn.
9	Madhya Bharat .	1. The Punjab National Bank Workmen's Union	Ujjain.
10	Mysore. (R)	1. The Mysore State Bank Employees' Union	Bangalore.
		2. Vysya Bank Employees' Union	Bangalore.
11	Rajasthan .	1. Punjab National Bank Workmen's Union, Rajasthan Region	Bikaner.
	(R)	*2. The Rajasthan Bank Employees' Union	Jaipur.
12	Saurashtra ;	*1. The Bank of India Ltd., Saurashtra and Kutch Branches Staff Union	Rajkot.
	(R)	*2. Saurashtra Bank Employees' Union	Rajkot.
13	Travancore-Cochin.	(R) *1. All Travancore-Cochin Bank Employees' Union	Trivandrum.
		(R) 2. Changanacherry Taluk Bank Employees' Union	Changanacherry.
14	Ajmer-Merwara (R)	1. Ajmer-Merwara Bank Employees Union	Ajmer.
15	Delhi	*1. Allahabad Bank Employees' Union	Delhi.
		2. All India Central Bank Employees' Association	Delhi.
		*3. All India Punjab National Bank Employees' Federation	Delhi.
		4. The Bank of Bikaner Employees' Union.	Delhi.
		5. The Central Bank of India Employees' Union, Delhi Province	Delhi.
		6. The Chartered Bank of India, Australia and China Employees' Union	Delhi.
	(R)	7. Delhi State Bank Employees' Association	Delhi.
		8. Grindlays Bank Staff Association (Delhi and New Delhi)	New Delhi.
		9. National Bank of India Employees' Union	Delhi.
		*10. National Bank of Lahore Employees' Union	Delhi.
		11. The Prabhat Bank Employees' Union	Delhi.
		12. Punjab National Bank Workmen's Union	Delhi.

* Same as All India Bank Employees' Association.
(R) Denotes Regional Unions.

SECTION II

List of elected Representatives of Employees who have filed Statements of Claims before the Tribunal

Sl. No.	State	Name of Bank	Place
1	Bihar	Central Bank of India Ltd.	Jamshedpur.
2	Bombay	1. Bank of Baroda Ltd.	Amalner.
		2. do.	Amreli.
		3. do.	Billimora.
		4. do.	Cambay
		5. do.	Dabhoi.
		6. do.	Dondaicha.
		7. do.	Harij.
		8. do.	Kadi.
		9. do.	Kalol.
		10. do.	Karjan.
		11. do.	Mithapur.
		12. do.	Port Okha.
		13. do.	Patan.
		14. do.	Petlad.
		15. do.	Sankheda.
		16. do.	Sidhpur.
		17. do.	Unjha.
		18. do.	Vijapur.
		19. do.	Visnagar.
		20. Imperial Bank of India	Ahmedabad.
		21. do.	Nadiad.
		22. New Citizen Bank of India Ltd.	Pen.
		23. Punjab National Bank Ltd.	Dhulia.
		24. do.	Hubli.
		25. do.	Jalgaon.
		26. do.	Poona.
		27. do.	Sirohi.
3	East Punjab	1. Bank of Baroda Ltd.	Amritsar.
		2. Grindlays Bank Ltd.	Simla.
		3. Hindustan Commercial Bank Ltd.	Jullunder.
		4. Prabhat Bank Ltd.	Hoshiarpur.
4	Madhya Pradesh	New Citizen Bank of India Ltd.	Nagpur.
5	Madras	1. Bank of Mysore Ltd.	Madras.
		2. Bharatha Lakshmi Bank Ltd.	Kavali.
		3. do.	Nuzvid.
		4. The Central Bank of India Ltd.	Coonoor.
		5. do.	Kozhikode.
		6. The Cochin Commercial Bank Ltd.	Madras.
		7. do.	Palghat.
		8. Eastern Bank Ltd.	Madras.
		9. Grindlays Bank Ltd.	Madras.
		10. Hindu Bank Karur Ltd.	Trichinopoly.
		11. Mercantile Bank of India Ltd.	Madras.
		12. Travancore Bank Ltd.	Madras.
		13. Vysya Bank Ltd.	Madras.
		14. do.	Markapur.
6	Uttar Pradesh	1. Bank of Baroda Ltd.	Kanpur.
		2. Central Bank of India Ltd.	Gonda.
		3. Hindustan Commercial Bank Ltd.	Gonda.
		4. National Bank of Lahore Ltd.	Rishikesh.
		5. Punjab National Bank Ltd.	Roorkee.
7	West Bengal	1. Bank of Baroda Ltd.	Maharshi Debenra Road, Calcutta.
		2. Bank of Behar Ltd.	Calcutta.

Sl. No.	State	Name of Bank	Place
8	Madhya Bharat	1. Bank of Jaipur Ltd. 2. United Commercial Bank Ltd.	Ratlam. Gwalior.
9	Mysore	Travancore Bank Ltd.	Bangalore.
10	Rajasthan	1. Bank of Jaipur Ltd. 2. Bank of Jaipur Ltd.	Jodhpur. Kishangarh.
11	Saurashtra	Bank of Baroda Ltd.	Verawal.
12	Travancore-Cochin	1. The Central Bank of India Ltd. 2. Ditto 3. The Cochin Commercial Bank Ltd. 4. The Cochin Nayar Bank Ltd. 5. Ditto 6. Ditto 7. Ditto 8. Ditto 9. Ditto 10. Ditto 11. National Bank of India Ltd. 12. Travancore Bank Ltd. 13. Ditto	Alleppey. Trivandrum. Cochin Cochin Cranganore. Ernakulam. Irinjalakuda. Kottapuram. Trichur Branch. Trichur Head Office. Fort Cochin. Alleppey. Kottayam.
13	Ajmer-Merwara	Punjab National Bank Ltd.	Ajmer.
14	Bhopal	Punjab National Bank Ltd.	Bhopal.
15	Delhi	1. Bank of Jaipur Ltd. 2. Central Bank of India (Delhi Group Treasurers). 3. Punjab National Bank Ltd.	Delhi. Delhi. Shahdara, Delhi.
16	Tripura	United Commercial Bank Ltd.	Agartala.
17	Vindhya Pradesh	Hindustan Commercial Bank Ltd.	Datia.

APPENDIX III

List of persons who appeared before the Tribunal at Bombay during the course of the main adjudication proceedings on behalf of Banks and their workmen.

BANKS

1. Mr. M. M. Jhaveri, Advocate and thereafter Mr. H. M. Seervai, Advocate with Mr. A. E. O. Lucas of Messrs. Craigie Blunt & Caroe, Solicitors, for the Bank of India Ltd.

2. Mr. Sohrab D. Vimadlal, Bar-at-law, with Messrs. N. J. Kohiyar and J. M. Khambata of Messrs. Ardesir Hormusji Dinshaw & Co., Solicitors and Mr. H. C. Captain, Managing Director, for the Central Bank of India Ltd.

3. Messrs. A. E. Blair and D. T. Lawrie of Messrs. Crawford Bayley & Co., Solicitors with Mr. B. K. Kacker, for the Imperial Bank of India.

4. Mr. B. N. Singh, Advocate with Messrs. Somesh Chandra and Om Prakash Gupta, for the Punjab National Bank Ltd.

5. Mr. R. J. Kolah, Advocate, and thereafter Mr. N. A. Palkhivala, Advocate with Mr. V. A. da Silva of Messrs. Craigie Blunt & Caroe, Solicitors, for the Chartered Bank of India, Australia & China.

6. Messrs. A. E. Blair and D. T. Lawrie of Messrs. Crawford Bayley & Co., Solicitors, for the Comptoir National D'Escompte de Paris.

7. Messrs. A. E. Blair and D. T. Lawrie of Messrs. Crawford Bayley & Co., Solicitors, for the Eastern Bank Ltd.

8. Mr. N. A. Palkhivala, Advocate with Mr. N. J. Apthorpe-Webb of Messrs. Little & Co., Solicitors, for Grindlays Bank Ltd.

9. Mr. N. A. Palkhivala, Advocate, with Mr. V. A. da Silva of Messrs. Craigie Blunt & Caroe, Solicitors, for the Hongkong & Shanghai Banking Corporation.

10. Mr. N. A. Palkhivala, Advocate, with Mr. V. A. da Silva of Messrs. Craigle Blunt & Caroe, Solicitors, for Lloyds Bank Ltd.

11. Messrs. A. E. Bliar and D. T. Lawrie of Messrs. Crawford Bayley & Co., Solicitors for the Mercantile Bank of India Ltd.

12. Mr. N. A. Palkhivala, Advocate, with Mr. N. J. Apthorpe-Webb of Messrs. Little & Co., Solicitors, for the National Bank of India Ltd.

13. Mr. S. S. Khambata of Messrs. Wadia Ghandy & Co., Solicitors, for the National City Bank of New York.

14. Mr. J. B. Dubash, Bar-at-Law instructed by Messrs. Little & Co., Solicitors, for the Nationale Handelsbank N.V.

15. Messrs. A. E. Blair and D. T. Lawrie of Messrs. Crawford Bayley & Co., Solicitors, for the Netherlands Trading Society.

16. Messrs. A. E. Blair and D. T. Lawrie of Messrs. Crawford Bayley & Co., Solicitors, for the Allahabad Bank Ltd.

17. Mr. B. K. Daphtary of Messrs. Daphtary, Ferreira & Divan, Solicitors, for the Bank of Baroda Ltd.

18. Messrs. B. Lakkappa Rai, Advocate and Alladi Kuppuswami, Advocate, for the Indian Bank Ltd.

19. Mr. R. Chaudhury, Bar-at-Law with Mr. Tanubhai D. Desai of Messrs. Motichand Devidas, Solicitors, for the United Bank of India Ltd.

20. Mr. Tanubhai D. Desai of Messrs. Motichand & Devidas, Solicitors with Mr. B. T. Thakur, General Manager, for the United Commercial Bank Ltd.

21. Mr. Tanubhai D. Desai of Messrs. Motichand & Devidas, Solicitors, for the Bank of Behar Ltd.

22. Mr. B. N. Singh, Advocate, for the Bank of Bikaner Ltd.

23. Mr. Tanubhai D. Desai of Messrs. Motichand & Devidas, Solicitors, for the Bank of Jaipur Ltd.

24. Mr. D. B. Tilak, Advocate, for the Bank of Maharashtra Ltd.

25. Mr. Tanubhai D. Desai of Messrs. Motichand & Devidas, Solicitors, for the Bank of Mysore Ltd.

26. Mr. Tanubhai D. Desai of Messrs. Motichand & Devidas, Solicitors and Mr. D. B. Tilak, Advocate, for the Bank of Rajasthan Ltd.

27. Mr. Tanubhai D. Desai of Messrs. Motichand & Devidas, Solicitors, for the Canara Bank Ltd.

28. Mr. K. Krishna Rao, Agent, Bombay Branch, for the Canara Banking Corporation Ltd.

29. Mr. Tanubhai D. Desai of Messrs. Motichand & Devidas, Solicitors, for the Devkaran Nanjee Banking Company Ltd.

30. Mr. Tanubhai D. Desai of Messrs. Motichand & Devidas, Solicitors, for the Hindustan Commercial Bank Ltd.

31. Mr. D. B. Tilak, Advocate, for the Hindusthan Mercantile Bank Ltd.

32. Mr. D. B. Tilak, Advocate, for the Jodhpur Commercial Bank Ltd.

33. Mr. D. B. Tilak, Advocate, for the Laxmi Bank Ltd.

34. Mr. D. B. Tilak, Advocate, for the Mercantile Bank of Hyderabad Ltd.

35. Mr. D. B. Tilak, Advocate, for the National Savings Bank Ltd.

36. Mr. D. B. Tilak, Advocate, for the New Citizen Bank of India Ltd.

37. Mr. A. S. Asayekar, Advocate, for the Palai Central Bank Ltd.

38. Mr. A. S. Asayekar, Advocate, for the South Indian Bank Ltd.

39. Mr. A. S. Asayekar, Advocate, for the Travancore Bank Ltd.

40. Mr. A. S. Asayekar, Advocate, for the Travancore Foreward Bank Ltd.

41. Mr. A. S. Asayekar, Advocate, for the Catholic Bank of India Ltd.

42. Mr. A. S. Asayekar, Advocate, for the Cochin Nayar Bank Ltd.

43. Mr. A. S. Asayekar, Advocate, for the Dhanalakshmi Bank Ltd.

44. Mr. D. B. Tilak, Advocate, for the G. Raghunathmul Bank Ltd.

45. Mr. A. S. Asayekar, Advocate, for the Indian Insurance and Banking Corporation Ltd.

46. Mr. A. S. Asayekar, Advocate, for the Malabar Bank Ltd.

47. Mr. S. Narayanalah, Advocate, for the Salem Bank Ltd.
48. Mr. A. S. Asayekar, Advocate, for the Thomcos Bank Ltd.
49. Mr. Manohar Lal Bagal, Advocate, for the Displaced Banks Association.

UNIONS OF WORKMEN

1. Messrs. A. S. R. Charl, Sushil Kavalekar, S. S. Dighe, N. S. Giradkar, Advocates, and Mr. G. G. Mehta, Bar-at-Law, for the All India Bank Employees' Association.
2. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Grindlays Bank Staff Union, Bombay.
3. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Grindlays Bank Staff Association, Delhi and New Delhi.
4. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Grindlays Bank Employees' Union, Madras.
5. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Chartered Bank of India, Australia and China Employees' Union, Bombay.
6. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Chartered Bank of India, Australia and China Local Staff Employees' Union, Calcutta.
7. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Chartered Bank Indian Staff Association, Madras.
8. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Chartered Bank of India, Australia and China Employees' Union, Delhi.
9. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the National Bank of India Ltd. (Bombay Branch) Indian Staff Union, Bombay.
10. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the National Bank of India Employees' Union, Madras.
11. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Lloyds Bank Ltd. Staff Union, Bombay.
12. Prof. K. T. Shah, Bar-at-Law and Mr. N. V. Phadke, Advocate, for the Nationale Handelsbank Employees' Union, Bombay.
13. Messrs Somnath P. Dave, Advocate, C. L. Dudhia, Bar-at-Law, D. H. Buch, R. S. Dikshit, E. A. Sethna and D. S. Parikh, Advocates, for the Imperial Bank of India Indian Staff Association (Bombay Circle), Bombay.
14. Messrs Somnath P. Dave, Advocate, C. L. Dudhia, Bar-at-Law, D. H. Buch, R. S. Dikshit, E. A. Sethna and D. S. Parikh, Advocates, for the Ahmedabad Bank Employees' Union, Ahmedabad.
15. Messrs Somnath P. Dave, Advocate, C. L. Dudhia, Bar-at-Law, D. H. Buch, R. S. Dikshit, E. A. Sethna and D. S. Parikh, Advocates, for the Vadodra Rajya Bank Nekar Sangh, Baroda.
16. Messrs Somnath P. Dave, Advocate, C. L. Dudhia, Bar-at-Law, D. H. Buch, R. S. Dikshit, E. A. Sethna and D. S. Parikh, Advocates, for the Sholapur District Bank Employees' Union.
17. Messrs Somnath P. Dave, Advocate, C. L. Dudhia, Bar-at-Law, D. H. Buch, R. S. Dikshit, E. A. Sethna and D. S. Parikh, Advocates, for the Surat Bank Employees' Union.
18. Messrs C. L. Dudhia, Bar-at-Law and D. H. Buch, Advocate, for the Nedungadi Bank Employees' Association, Calicut.
19. Mr. Niren De, Bar-at-Law and Mr. N. V. Phadke, Advocate instructed by Messrs Jyoty Ghosh and K. Srinivasan, for the Imperial Bank of India Indian Staff Federation.
20. Mr. P. T. Leuva, Advocate, for the Punjab National Bank Workmen's Union.
21. Mr. N. V. Phadke, Advocate, for the Imperial Bank of India Indian Staff Association (Bengal Circle).
22. Mr. N. V. Phadke, Advocate, for the Imperial Bank of India Indian Staff Union (Madras Circle).
23. Mr. N. V. Phadke, Advocate, for the Imperial Bank of India Indian Staff Association (Bombay Circle), Poona.

WORKMEN

1. Mr. S. K. Ghose, for the Bank of India Ltd. Employees' Union (Calcutta Branches), Calcutta.

2. Messrs. C. O. Thakker and D. P. Vasavada, for the Bank of India Ltd. Saurashtra and Kutch Branches Staff Union.
3. Mr. G. G. Dholakia, for the Bank of India Ltd. Staff Union, Bombay.
4. Mr. D. Natarajan, for the Bank of India Staff Union, Madras.
5. Mr. A. L. Desai, for the Bank of India Ltd. Staff Union, Surat.
6. Mr. V. M. Devl, for the Bank of India Ltd. Staff Union, Ahmedabad.
7. Mr. N. T. Bidker, for the Bank of India Staff Union, Nagpur.
8. Mr. Tarakeswar Chakravarty, for the Central Bank of India Employees' Association, West Bengal, Calcutta.
9. Mr. R. K. Sahgal, for the Central Bank of India Employees' Union, Punjab, Amritsar.
10. Mr. Y. D. Kulkarni, for the Central Bank of India Employees' Union, Bombay.
11. Mr. S. K. Biswas, for the Central Bank of India Employees' Association, Patna.
12. Mr. N. C. Roy, for the Central Bank Employees' Association, Muzaffarpur.
13. Mr. Ram Sewak Choudhury, for the Central Bank of India Employees' Union, Delhi.
14. Messrs. P. Srinivasa Rao and D. P. Mithra, for the Central Bank of India Ltd. Employees' Union, Hyderabad-Deccan Group, Hyderabad-Deccan.
15. Mr. S. Raghavan, for the Central Bank Employees' Association, Mathural.
16. Mr. N. G. Shah, for the Central Bank of India Employees' Union, Jaina.
17. Mr. K. T. Managoli, for the Central Bank of India Ltd. Employees' Union, Karnatak Group, Hubli.
18. Messrs. G. G. Vaze, P. V. Jathar and J. G. Panashikar, for the Imperial Bank of India Staff Association (Bombay Circle), Poona.
19. Messrs. Jyoti Ghose, Mohan Lall Majumder, Amarendra Nath Bhattacharjee, Uma Shanker Chatterjee and Jagdislal Das, for the Imperial Bank of India Indian Staff Association (Bengal Circle), Calcutta.
20. Messrs. K. Srinivasan, P. S. Chengalvayan, A. J. Lewis, C. A. Kalyana, sundaram and T. E. Menzil, for the Imperial Bank of India Indian Staff Association (Bengal Circle), Calcutta.
21. Mr. C. R. Bose, for the Punjab National Bank Employees' Union (West Bengal, Bihar and Orissa), Calcutta.
22. Mr. Lajjala Ram Kashyap, for the Punjab National Bank Employees' Union (Punjab), Ambala Cantt.
23. Mr. B. B. Desai, for the Punjab National Bank Employees' Union, Bombay.
24. Mr. S. Somasundaram, for the Punjab National Bank Staff Union, Madras.
25. Messrs. P. R. Sharma and Bareshwar Singh, for the Punjab National Bank Workmen's Union, Bombay.
26. Messrs. Ved Prakash Amar, Narendra Bhushan Bhatnagar, S. N. Gupta and Ved Prakash Puri, for the Punjab National Bank Workmen's Union, Delhi.
27. Mr. Gajendra Nath Banerji, for the Chartered Bank of India, Australia and China Local Staff Employees' Union, Calcutta.
28. Messrs. Jagannath Prasad Agarwal and S. S. Saxena, for the Chartered Bank of India, Australia and China Employees' Union, Kanpur.
29. Mr. G. S. Bagalkar, for the Chartered Bank of India, Australia and China Employees' Union, Bombay.
30. Mr. S. C. Dass Mehta, for the Chartered Bank of India, Australia and China Employees' Union, Delhi.
31. Messrs. K. R. Gopalratnam and C. R. Manickam, for the Chartered Bank Indian Staff Association, Madras.
32. Mr. Monoranjan Bose, for the Eastern Bank Ltd. Calcutta Branch Indian Employees' Union, Calcutta.
33. Mr. N. Mukherji, for the Grindlays Employees' Association, Calcutta.
34. Mr. G. M. Pinto, for the Grindlays Bank Staff Union, Bombay.
35. Messrs. Madan Lal Sharma and Kamal Kishore Wahal, for the Grindlays Bank Staff Association, Delhi and New Delhi.
36. Mr. C. S. Ganesan, for the Grindlays Bank Employees' Union, Madras.

37. Mr. Subal Chand Sur, for the Hongkong and Shanghai Banking Corporation (Calcutta Branch) Indian Staff Union, Calcutta.

38. Mr. N. R. Bugwadia, for the Hongkong and Shanghai Banking Corporation Employees' Union, Bombay.

39. Mr. Hrishikesh Nandi, for the Lloyds Bank Indian Staff Association (Calcutta Branches), Calcutta.

40. Mr. M. Shankar Rao, for the Lloyds Bank Staff Union, Bombay.

41. Mr. Tushar Chakravorti, for the Mercantile Bank of India Ltd. Employees' Union, Calcutta.

42. Mr. Chuni Lal Basu, for the National Bank of India Ltd. (Calcutta Branch) Indian Staff Union, Calcutta.

43. Messrs. Rajinder Sayal and P. L. Chakravorti, for the National Bank of India Employees' Union, New Delhi.

44. Messrs. Dharendra Nath Banerjee and B. Dandapani, for the National City Bank of New York Calcutta Branch Indian Employees' Association, Calcutta.

45. Mr. K. L. Mukherjee, for the Nationale Handelsbank Employees' Union, Calcutta.

46. Mr. M. S. Desai, for the Nationale Handelsbank Employees' Union, Bombay.

47. Messrs. Makhn Lal Chakrabarty and Krishnanand Singh, for the Allahabad Bank Indian Staff Association, Calcutta.

48. Mr. P. D. Patkar, for the Allahabad Bank Employees' Union, Bombay.

49. Mr. Dayal Das Khanna, for the Allahabad Bank Employees' Union, Delhi.

50. Mr. Sukumar Ray, for the Bank of Baroda Ltd. Calcutta Staff Association, Calcutta.

51. Messrs. S. N. Nadkarni and P. K. Menon, for the Bank of Baroda Employees' Union, Bombay.

52. Mr. R. M. Tivari, for the Hyderabad State Bank Staff Association, Hyderabad-Deccan.

53. Mr. G. L. Prabhu, for the Indian Bank Employees' Union, Bombay.

54. Mr. S. Ramaseshan, for the Indian Bank Employees' Union, Madras.

55. Mr. P. Ramachandra Rao, for the Indian Bank Circars Employees' Union, Bezwada.

56. Messrs. Tara Prasanna Das, Jatindranath Bhattacharjee, Sudhindra Mohan Deb, Jogesh Chandra Sinha, for the United Bank of India Employees' Association (Central Committee).

57. Mr. A. Saha, for the United Commercial Bank Employees' Association, Calcutta.

58. Mr. K. B. Lal, for the Bank of Behar Employees' Association, Patna.

59. Messrs. S. N. Biswas and Rasharaj Das, for the Bank of Bikaner Employees' Union, Calcutta.

60. Mr. H. L. Parvana, for the Bank of Bikaner Employees' Union, Delhi.

61. Mr. R. S. Shukla, for the Bank of Jaipur Employees' Union, Calcutta.

62. Messrs. R. Narayanan and C. B. Malpekar, for the Bank of Jaipur Employees' Union, Bombay.

63. Messrs. P. K. Janardhanan Pillay and K. G. Kamath, for the Canara Bank Employees' Union, Madras.

64. Mr. Samir Mittra, for the Hind Bank Employees' Union, Calcutta.

65. Mr. Hirendra Kishore Roy, for the Hindustan Commercial Bank Employees' Association, Calcutta.

66. Mr. Pulin Behari Das, for the Hindusthan Mercantile Bank Employees' Union, Calcutta.

67. Mr. G. Nagrall, for the Indian Overseas Bank Employees' Union, Madras.

68. Mr. G. Hanmant Rao, for the Mercantile Bank of Hyderabad Ltd. Employees' Union, Hyderabad-Deccan.

69. Mr. A. Naganathan, for the Nedungadi Bank Employees' Association, Calicut.

70. Mr. Jyotirmoy Dutta, for the Calcutta National Bank Employees' Association, Calcutta.

71. Mr. Brij Gokul Singh, for G. Raghunathmul Bank Ltd. Staff Association, Hyderabad-Deccan.

72. Mr. Pyare Lal, for the Punjab Bank Employees' Federation.
73. Messrs. Shew Shankar Prasad and Satyadeo Narain Prasad, for Bihar Provincial Central Bank of India Employees' Association, Muzaffarpur.
74. Mr. A. Srinivasan, for Madras Provincial Union of Bank Employees, Madras.
75. Messrs. T. B. Devasey and G. P. Mathai, for the South Indian Bank Employees' Association, Madras.
76. Mr. N. C. Dutta, for Gaya District Bank Employees' Union, Gaya.
77. Mr. M. R. Shankarappa, for Mysore State Bank Employees' Union, Bangalore City.
78. Messrs. Kanchanlal V. Parikh, Ratilal A. Bhatt, Chandrakant T. Sheth, N. B. Captan, N. V. Gude, Vadilal D. Mehta and V. K. Sabnis, for Unions affiliated to Indian National Trade Union Congress.
79. Messrs. V. N. Mehrotra, J. D. Jain, B. K. Porwal, S. N. Chakravarti, S. S. L. Saxena, V. N. Sekhri, P. C. Jain, Sardhu Ram Gupta, P. B. Gupta and Chittar Mal Sharma, for U.P. Bank Employees' Union.
80. Mr. S. C. Ajmera, for Rajasthan Bank Employees' Union.
81. Messrs. J. M. Vyas and Anil Desai, for Saurashtra Bank Employees' Union.
82. Messrs. G. Madhavan Nair, V. Narayanan Nair and T. K. Velayudhan Nair, for Travancore-Cochin Bank Employees' Union.
83. Messrs. A. C. Kakar, Roshanlal Malhotra and G. N. Trikannad, for All India Bank Employees' Association.
84. Messrs. Shiv Kumar Sharma and J. C. Khanna, for All India Central Bank Employees' Association.
85. Mr. Prabhat Kar, for Bengal Provincial Bank Employees' Association.

APPENDIX IV

REFERENCE NO. I OF 1952

(Government of India Notification No. S. R. O. 36 dated 5th January 1952).

List of Exhibits marked on the side of the Employees.

Note.—Exhibits Nos. E. 1 to E. 11 marked in I. A. No. 14/52 for the Interim Award are produced from that file and by consent made part of the exhibits in the main reference.

Date when marked	Exhibit No.	Description	By whom produced
17-6-1952	Ex. E. 1 series	Statements (2) showing the increase in cost of living index figures in Class I Areas (1944-100)	All India Bank Employees' Association.
23-6-1952	Ex. E. 2 series	Statements (14) showing the figures for rise or fall in cost of living index and its effect in terms of money.	Do.
"	Ex. E. 3 series	Statements (7 & 1 graph) showing cost of living index figures and the rate of dearness allowance in the Bombay Circle of the Imperial Bank of India.	Imperial Bank of India Staff Association, (Bombay Circle), Poona.
"	Ex. E. 4 series	Statements (4 and 1 graph) showing cost of living index figures and the rate of dearness allowance of the Imperial Bank of India, Madras Circle, with covering letter.	Imperial Bank of India Indian Staff Union (Madras Circle).
"	Ex. E. 5 series	Statements (2) of cost of living index figures and dearness allowance rates on salaries.	Lloyds Bank Ltd. Staff Union.
"	Ex. E. 6 series	Statements (4) showing the list of banks, cost of living indices in the city of Ahmedabad, Bombay etc.	Bank Employees Association (I. N. T. U. C.)
"	Ex. E. 7	Statement regarding emoluments in the Mercantile Bank of Hyderabad Ltd.	All India Bank Employees Association.
25-6-1952	Ex. E. 8 series	Statements (2) showing the increase in working hours and the overtime.	Do.
"	Ex. E. 9 series	Statements (8 & 1 graph) relating to working hours in the Imperial Bank of India (Bengal Circle) with covering letter.	Imperial Bank of India Indian Staff Association (Bengal Circle)

Date when marked	Exhibit No.	Description	By whom produced
25-6-1952	Ex. E. 10 series	Statements (2) relating to working hours in the Imperial Bank of India (Madras Circle) with covering letter.	Imperial Bank of India Indian Staff Union (Madras Circle).
"	" 11 series	Statements showing the details of working hours in the Lloyds Bank Ltd.	Lloyds Bank Ltd. Staff Union.
15-7-1952	" 12 series	Statements (2) showing number of workmen working in Exchange Banks in Indian Union and working fund, profit, dividends etc.	Bank Employees Federation (INTUC)
"	" 13 series	Statements (2) showing percentage rise in working class cost of living index figure since 1944-51 and minimum basic wage in cotton mill industry.	Do.
22-7-1952	" 14	Statement showing calculations on the basis of middle class cost of living index.	All India Bank Employees Association, I. O.
30-7-1952	" 15	Statement showing comparative study of the salary and allowances of the employees of the mercantile firms with those of the bank employees in Calcutta.	I. B. I. Staff Federation.
1-8-1952	" 16	Statement showing the amounts transferred to Pension Fund from profit of the Imperial Bank of India.	Do.
6-8-1952	" 17	Statement showing comparative statement showing the monthly expenditure of a family in the income group Rs. 100-150.	Bank Employees Association (INTUC).
"	" 18	Comparison of working class and middle class budgets in Bombay in 1945-46 according to Shri S. R. Deshpande and Subramanian's Report (2 sheets).	
11-8-1952	" 19	Note on Banking conditions in England and Wales.	Grindlays Bank Staff Association, Lloyds Bank Staff Union.
"	" 20	Statement showing the names and particulars of employees of Lloyds Bank Ltd., Hornby Road, Bombay and Princess Street branches who are employed in the work of more responsible nature (2 sheets).	
"	" 21 series	Statements (12) of total emoluments obtained by employees in 'A' Class banks area I as per Sen Award at different cost of living indices and emoluments in other concerns like Eumrah-Shell etc.	Bank Employees Federation (INTUC).
"	" 22	Statement showing the different scales of salary and dearness allowance obtained by various categories of employees in various companies by awards (8 sheets).	Do.
12-8-1952	" 23	Statement showing salaries obtained by stenographers in various companies.	Do.
"	" 24	Statement showing minimum and maximum total emoluments obtained by stenographers at different cost of living indices in various concerns.	Do.
19-8-1952	" 25	Statement showing middle class cost of living index for Calcutta (Base August, 1939).	All India Bank Employees Association.
20-8-1952	" 26	Statement showing difference in dearness allowance at different centres under Sen Award.	Bank Employees Federation (INTUC).
"	" 27	Statement showing salaries and allowances of bank employees in England and Ireland.	All India Bank Employees Association, Grindlays Bank Staff Union.
"	" 28 series	Statements (4) showing the classification of employees in Grindlays (with covering letter).	

Date when marked	Exhibit No.	Description	By whom produced
20-8-1952	Ex. B. 29	Statement showing list of banks who used to pay overtime allowance below 39 hours but after 36 hours before Interim Award.	All India Bank Employees Association.
9-10-1952	" 30	Comparative statement showing the difference between the total of the salary and dearness allowance paid in the Imperial Bank (Bombay and Madras Circles) during the pre-Sen period (except at Bombay and Ahmedabad) and that now proposed.	Imperial Bank of India Staff Federation (Bombay and Madras Circles).
"	" 31	Comparative statement showing the difference between the total of the salary and dearness allowance paid in the Imperial Bank during the pre-Sen period in Bengal Circle and that now proposed by Big Banks.	Imperial Bank of India Staff Federation (Bengal Circle).
"	" 32	Comparative statement of scales of pay etc. before enforcement of Sen Award and the pay scales now proposed by Banks (A Class) Area I.	Chartered Bank of India, Australia and China Employees Union, Bombay.
"	" 33	Comparative statement of emoluments of clerks at pre-Sen Award scales and the scales now proposed.	Lloyds Bank Ltd., Staff Union, Bombay.
"	" 34	Extracts (3) from Circular Memoranda of series. Imperial Bank of India, Madras.	Imperial Bank India Staff Federation (Madras Circle).
10-10-1952	" 35	Statement showing total minimum emoluments in certain concerns for clerical staff at cost of living index 330.	Bank Employees Federation (INTUC).
"	" 36	Statement showing the average total emoluments in various concerns including Provident Fund at index 330.	Do.
"	" 37	Comparative statement of scales of pay etc. before enforcement of Sen Award and scales now proposed for employees of Imperial Bank of India at Bombay and Ahmedabad.	Do.
"	" 38	Comparative statement of total emoluments proposed by Central Bank of India Ltd., (vide Ex. B. 58) with pre-Sen total emoluments.	Do.
13-10-1952	" 39	Article on World War and the consumption pattern of the Calcutta Middle Class by S. Bhattacharyya.	All India Bank Employees Association.
"	" 40	Statement showing places where cost of living indices are available and number of bank employees there.	Do.
"	" 41	Consolidated statement of Banking Companies in India.	Do.
"	" 42	Comparative study of certain banks for 1949-51 to show progressive trends.	Do.
"	" 43	Statement giving particulars regarding income, age, children, etc. of employees of Central Bank of India Ltd. at Bhowanipur Branch (Calcutta).	Do.
"	" 44	Comparative statement showing the difference between pre-Sen scales and scale proposed by Indian Bank Ltd. for Bombay.	Do.
"	" 45	Comparative statement showing the difference between pre-Sen scales and those now proposed by Exchange Banks.	Do.
"	" 46	Comparative statements (3) showing difference between pay scales pre-Sen Award and the scales suggested by Central Bank of India Ltd.	Do.

Date when marked	Exhibit No.	Description	By whom produced
13-10-1952	Ex. E. 47	Comparative statement showing the difference between the pay scales pre-Sen Award and those now suggested by Hindustan Commercial Bank Ltd., for Calcutta Branch.	All India Bank Employees Association.
14-10-1952	" 48	Comparative statements (2) of the scales of pay proposed by Banks and pre-Sen scales in a "C" class Bank (Bank of Behar Ltd.) in C area.	Do.
"	" 49	Comparative statement showing the difference between the pay scales existing prior to Sen Award and those now proposed by Bank of India Ltd. for Bombay and Calcutta.	Do.
"	" 50	Certain particulars regarding Banks under reference having Head Office in Mysore State.	Do.
"	" 51	Certain particulars regarding Banks in Travancore-Cochin and comparative statement showing salaries and dearness allowance given in commercial firms, Government Institutions and Banks. (2 sheets).	Do.
"	" 52	Statements (2) showing difference of amounts ratio in establishment expenditure between 17 big officers and 2005 remaining number of staff in United Commercial Bank Ltd., as on 30-6-1949.	Do.
"	" 53	Statement showing ratio of establishment expenses to gross income United Commercial Bank Ltd.	Do.
"	" 54	Comparative statement showing the increase in business and earning of the Punjab National Bank Ltd.	Do.
"	" 55	Statement showing the difference between pre-Sen scales and proposed scales of Punjab National Bank Ltd.	Do.
"	" 56	Comparative study of establishment charges of certain banks for 1949 to 1951.	Do.
15-10-1952	" 57	Comparative statements (3) showing the difference between the pre-Sen scales and the revised scales proposed by Central Bank of India Ltd. on 14-10-1952.	Do.
"	" 58	Comparative statement showing the difference between the pre-Sen scales and revised scales suggested by Bank of India Ltd.	Do.
"	" 59	List of Hill stations for which hill and fuel allowances have been demanded.	Imperial Bank of India Staff Federation.
21-10-1952	" 60	Statement showing the ratio of Indian profit to global profit of some Exchange Banks in India.	All India Bank Employees Association.
31-10-1952	" 61	Statement showing profits of Exchange Banks in India as compared to their global profits.	Grindlays Bank Staff Union, Bombay.
"	" 62	Statement showing the Hours of Work of some important commercial establishments, Govt. of Bombay and Railways.	Imperial Bank of India Staff Federation.
14-11-1952	" 63	Statement showing difference between total emoluments prior to Sen Award and during Sen Award.	Bank Employees Federation (INTUC).
"	" 64	Statement showing the difference between existing pre-Sen total emoluments and existing Sen total emoluments and the hardship caused in absence of any notion.	Do."

Date when marked	Exhibit No.	Description	By whom produced
14-11-1952	Ex. E. 65	Statement showing total emoluments as per proposed revised scales of pay for clerical staff by Central Bank of India Ltd. as compared with pre-Sen and Sen total emoluments.	Bank Employees Federation (I. N. T. U. C.)
"	" 66	Statement showing years of service, existing salary under Sen Award and designations of certain employees of Allahabad Bank Ltd.	All India Bank Employees Association.
15-11-1952	" 67	A comparative statement showing loss in total emoluments suffered by employees in Central Bank of India Ltd., West Bengal as a result of maladjustment of salaries after Sen Award.	Do.
21-11-1952	" 68	Letter dated 27-9-49 from the Manager, Punjab National Bank Ltd., Aligarh Branch to Manager, Guarantee Fund Trust, Delhi.	Do.
"	" 69	Letter dated 24-9-49 from the Manager, G/F, Punjab National Bank Ltd., Delhi to Manager, Aligarh Branch Re : Guarantee Fund.	Do.
"	" 70	Central Office circular No. 167, dated 12-9-1949 from Superintendent, Central Office, Punjab National Bank Ltd., Delhi Re : insurance of remittance of cash and bonding of cashiers under Guarantee Fund.	Do.
"	" 71	Letter dated 11-11-49 from Manager, G/F Punjab National Bank Ltd., Delhi to the Manager, Aligarh Branch.	Do.
"	" 72	Letter dated 18-6-1949 from Shri Jaleshwar Prasad, Chief Labour Commissioner, Government of India to the Secretary, U. P. Bank Employees Union, Kanpur Re : Interim Relief.	Do
24-11-1952	" 73 series.	Submissions regarding Guarantee Fund.	Punjab National Bank Workmen's Union, Delhi.
"	" 74 series.	Constitution of All India Bank Employees' Association.	All India Bank Employees Association.
	" 75 series.	Statements (2) showing the list of unions and total membership which are affiliated to All India Bank Employees Association.	Do.
	" 76 series.	Details of conferences, names of Presidents etc. elected from time to time.	Do.
25-11-1952	" 77 series	Statement showing a list of Reg. Unions of Employees at different branches of Grindlays Bank Ltd., with information regarding their representative character.	Grindlays Bank Staff Union, Bombay.
"	" 78	Details regarding address, registration number and membership of National Bank of India Employees' Union, Madras.	National Bank of India Employees Union, Madras.
	" 79 series.	Reg. Constitution of U. P. Bank Employees' Union, Kanpur, list of affiliated units and statements of receipt and payment for the year ended 31-3-1952.	U. P. Bank Employees Union, Kanpur.
"	" 80 series.	A note on Adjustment of Wages.	Imperial Bank of India Staff Indian Union (Madras Circle).

REFERENCE NO. 1 OF 1952.

(Government of India Notification No. S. R. O. 36 dated 5th January, 1952).

List of Exhibits marked on the side of the Banks.

NOTE.—Exhibits Nos. B. 1 to B. 46 marked in I. A. No. 14/52 for the Interim Award are produced from that file and by consent made part of the exhibits in the main reference.

Date when marked	Exhibit No.	Description	By whom produced
25-6-1952	Ex. B. 1 series.	Statements (3) showing the cost of living in 1948 figures (from the Indian Labour Gazette and Monthly Abstract of Statistics) and dearness allowance payable as pre-Sen Award.	Central Bank of India Ltd.
8-7-1952	„ 2 series.	Statements (27 sheets with a covering letter from Mr. D. B. Tilak) relating to working hours at various places of different banks.	All the Banks.
25-6-1952	„ 3	Statements showing number of offices in each State and total number of workmen (clerks and subordinates) employed.	Central Bank of India Ltd.
„	„ 4	Statement showing the number of offices and employees in Indian Union (excluding those situated in Jammu and Kashmir State).	Imperial Bank of India.
„	„ 5	Statement showing the branches and number of employees.	Mercantile Bank of India Ltd.
„	„ 6	Do.	Eastern Bank Ltd.
„	„ 7	Statement showing the branches (statewise) and number of employees.	Allahabad Bank Ltd.
„	„ 8	Statement showing the number of offices in each State in India and the total number of workmen working therein as on 20-6-1952.	Bank of India Ltd.
„	„ 9	Statement showing the list of branches according to States and the number of employees—clerical and subordinate—at each branch as on 1st January 1952.	Bank of Baroda Ltd.
„	„ 10	Statement showing the number of offices and the number of workmen employed in each State in India as on 31-5-1952.	United Commercial Bank Ltd.
„	„ 11	Statement showing employees in various branches.	Indian Bank Ltd.
„	„ 12	Statement showing the number of branches in each State and the number of workmen employed therein.	Hongking and Shanghai Banking Corp.
„	„ 13	Do.	Chartered Bank of India, A. & C.
„	„ 14	Do.	Lloyds Bank Ltd.
„	„ 15	Statement showing the working hours of the clerical and non-clerical employees	Grindlays Bank Ltd.
„	„ 16	Statement showing the number of branches and the number of staff.	National Bank of India Ltd.
„	„ 17	Staff position in Indian Union	United Bank of India Ltd.
„	„ 18	Statement showing the number of branches and the number of employees.	Netherlands Trading Society Ltd.
„	„ 19	Statement showing the number of branches of the Bank in the Indian Union and the total number of employees as on 1-6-1952.	Canara Bank Ltd.
„	„ 20	Statement showing the number of offices in each State and the number of employees therein.	Devkaran Nanjee Banking Co. Ltd.
„	„ 21	Do.	Bank of Jaipur Ltd.
„	„ 22	Statement showing the number of branches of the Bank and employees, statewise, as on 20-6-1952.	Bank of Behar Ltd.

Date when marked	Exhibit No.	Description	By whom produced
25-6-1952	Ex. B. 23	Statement regarding the number of branches and the employees in different States in India.	Punjab National Bank Ltd.
"	" 24	Statement showing the number of employees, clerical and subordinate, and working hours on weekdays and Saturdays at the Bombay and Calcutta Branches (with covering letter).	National City Bank of New York.
"	" 25 series.	Statements showing the total strength of staff (categorywise) at the branches in different States of Indian Dominion excluding the staff at Head Office.	Hindustan Commercial Bank Ltd.
"	" 26	Statement showing the number of branches and particulars.	South Indian Bank Ltd.
"	" 27	Statement showing the number of branches and particulars.	Cochin Nayar Bank Ltd.
"	" 28	Do.	Thomsons Bank Ltd.
"	" 29	Do.	Travancore Forward Bank Ltd.
"	" 30	Do.	Malabar Bank, Ltd.
"	" 31	Do.	Palai Central Bank Ltd.
"	" 32	Do.	Catholic Bank of India Ltd.
27-6-1952	" 33	Statement showing the number of offices, hours of work, number of clerks and the number of menials in each State (with covering letter).	Indian Commercial Bank Ltd.
"	" 34	Statement showing the number of branches in each State and the workmen employed therein (with covering letter).	Laxmi Bank Ltd.]
3-7-1952	" 35	Statement showing the list of Mofussil branches and the number of employees working in each branch and the population of the place.	Bank of Mysore Ltd.
"	" 36 series.	Letter (2 sheets) from New Citizen Bank of India to Mr. D. B. Tilak regarding working hours in various branches (with covering letter).	New Citizen Bank of India Ltd.
"	" 37 series.	Statement showing hours of work (2 sheets).	Hindustan Mercantile Bank Ltd.
"	" 38	Do.	National Saving Bank Ltd.
"	" 39	Do.	Mercantile Bank of Hyderabad Ltd.
"	" 40	Letter addressed to Mr. D. B. Tilak regarding working hours (with covering letter).	G. Raghunathmul Bank, Ltd.
"	" 41	Letter addressed to Mr. D. B. Tilak regarding number of offices, number of employees and the hours of work.	Do.
"	" 42	List of places where clearing houses are established.	Imperial Bank of India.
"	" 43	Statement showing clearing hours in Bombay.	Do.
"	" 44 series.	The form of Agreement of Service of the Bank of Mysore Ltd.	Bank of Mysore Ltd.
"	" 45	Statement showing the scales of pay and the number of staff working in various branches (inclusive of Head Office) of the Bank of Mysore working within the State.	Bank of Mysore Ltd.

Date when marked	Exhibit No.	Description	By whom produced
3-7-1952	Bx. B. 46 series.	Proceedings of the Meeting of the Elected and accredited representatives of the staff of the Bank of Mysore Ltd. (13 sheets).	Bank of Mysore Ltd.
14-7-1952	" 47 series.	Statement showing (a) Deposits and (b) Paid up Capital plus Reserves plus Deposits of certain Banks (excluding (i) Foreign Banks (ii) Banks working under Schemes of arrangement and (iii) Banks under Moratorium) as on 31-12-1949, 31-12-1950 and 31-12-1951 (3 sheets).	Bank of India Ltd.
16-7-1952	" 48 series.	Note submitted by the Imperial Bank of India (3 sheets).	Imperial Bank of India.
"	" 49 series.	Statement showing (a) Deposits (b) Paid up Capital plus Reserves plus Deposits (c) Bills Discounted and Purchased plus Loans and advances (d) Investments in Government Securities (e) Total of (c) and (d) as on 31-12-51 of certain Banks (excluding (i) Foreign Banks (ii) Banks working under Schemes of arrangement and (iii) Banks under Moratorium). (3 sheets).	Bank of India Ltd.
"	" 50 series.	Statement of Devkaran Nanjee Banking Company Ltd. regarding the question of classification of Banks (2 sheets).	Devkaran Nanjee Banking Co. Ltd.
31-7-1952	" 51 series.	Copy of Trust deed dated 23-11-21 regarding constitution of a pension fund for the officers and servants of the Imperial Bank of India (2 sheets).	Imperial Bank of India.
1-8-1952	" 52	Statement showing Capital and Revenue Account and statement of affairs of the Imperial Bank of India Employees Pension and Guarantee Fund for the year ended 31st March 1952.	Do.
2-8-1952	" 52A series.	Actuarial Valuation (10) of the Imperial Bank of India Employees Pension and Guarantee Fund for the quinquennium ended 30th September 1948.	Do. (Treated as confidential under Sec. 21 of the I. D. Act 1947.)
"	" 52B series.	Memorandum, dated 15th April 1950 (14) submitted by the Managing Director to the Central Board of the Bank on 24th April 1950.	Do.
26-8-1952	" 53 series.	Booklet containing the list of demands before Sen Tribunal.	Central Bank India Ltd.
"	" 54 series.	Comparative statements showing the demands made before Sen, Divatia and Sastri Tribunals.	Central Bank of India Ltd.
4-9-1952	" 55	Comparative statement of present emoluments of clerical and subordinate staff and those demanded.	Central Bank of India Ltd.
"	" 56	Analysis of Establishment Charges on workmen during 1949, 1950 and 1951.	Do.
"	" 57	Analysis of Establishment Charges on Officer staff during 1949, 1950 and 1951.	Do.
8-8-1952	" 58 series.	Grades and scales of salaries of clerks and subordinate staff for Areas I, II and III.	Do.
9-9-1952	" 59 series.	Excerpts from "Sampling Methods for Censuses & Surveys" by Frank Yates (7 sheets).	Bank of India Ltd.
"	" 60	Percentage distribution by Income Group of families analysed in Subramaniam Report.	Do.

Date when marked	Exhibit No.	Description	By whom produced
9-9-1952	Ex.]B. 61	Regional Distribution of total number of permanent Govt. servants drawing up to Rs. 500 and the numbers in the samples originally selected.	Bank of India Ltd.
"	" 62	Excerpts from a scheme for an Economic Census of India by Bowley and Robertson.	Do.
11-9-1952	" 63	Statement showing the ages of clerks who are married and unmarried and the number of children they have.	Bank of Baroda Ltd.
"	" 64	Statement showing the ages of subordinates who are married and unmarried and the number of children they have.	Do.
"	" 65	Statement showing average composition of all families.	Bank of India Ltd.
"	" 66	Statement showing number of persons and whether married or unmarried at certain places in Bombay State.	Do.
"	" 66 (a)	Do. Bengal State.	Do.
"	" 67	Excerpts from a brochure titled "Cost of living wage adjustments in collective bargaining".	Do.
15-9-1952	" 68	Statement showing percentage of expenditure on various items in various budgets.	Do.
"	" 69	Report on an enquiry into Working Class Family Budgets in Ahmedabad (1933-1935).	Do.
16-9-1952	" 70	Whether Index Nos. for two places are arithmetically comparable.	Bank of India Ltd.
"	" 71	Excerpts from Report on an Enquiry into Working Class Family Budgets in Bombay City (1932-1933).	Do.
"	" 72	Statement of staff in Head Office of Central Bank and whether married or unmarried and number of children.	Central Bank of India Ltd.
"	" 73	Statement of minimum rates of wages payable to various classes of employees in Cantonment Boards fixed by Central Government.	Bank of Baroda Ltd.
"	" 74	Comparative statements (2) of emoluments under scale of Pay Commission and that suggested by Big Banks.	Central Bank of India Ltd.
"	" 74(a)	Comparative statements of emoluments of clerks under Bombay Government and those suggested by Big Banks.	Central Bank of India Ltd.
"	" 74(b)	Do. subordinate staff	Do.
"	" 75	Statements showing places in the same State having different dearness allowances slabs.	Do.
"	" 76	Statements (3) showing scales of pay and allowances of staff in 1940 and 1949 (Pre-Sen Award).	Punjab National Bank Ltd.
23-9-1952	" 77	Statement showing total expenditure on workmen for years 1949, 1950 and 1951.	Do.
"	" 78	Statement of approximate establishment expenses of workmen based on demands made.	Do.
"	" 79	Statement showing establishment expenditure on officer staff for years 1949, 1950 and 1951.	Do.
"	" 80	Table showing age at which clerks and subordinates joined Bank.	Bank of Baroda Ltd.

Date when marked	Exhibit No.	Description	By whom produced
23-9-1952	Ex. B. 81	Statement based on Ex. E. 17 showing the remuneration payable according to cost of living index figures at different places.	Bank of Baroda Ltd.
"	" 82	Statement giving particulars of workmen and non-workmen in various States.	Do.
"	" 83	Statement showing number of workmen series. branchwise.	Do.
"	" 84	Analysis of Establishment charges on Workmen and Officers for 1949, 1950 and 1951 (2)	Do.
"	" 85	Categories of employees whom the Bank considers non-workmen.	Do.
24-9-1952	" 86	Particulars regarding officers in India	Indian Bank Ltd.
"	" 87	Statements (10) showing emoluments series. admissible to staff in various concerns in Madras.	Do.
"	" 88	Statement showing emoluments to staff under various awards.	Do.
"	" 89	Statement of salary and dearness allowance paid to employees from 1946 to 1951.	Do.
"	" 90	Statement showing (1) Salary (2) Dearness Allowance and (3) special allowance paid to workmen per month.	Do.
"	" 91	Statement of Percentage of Establishment to Gross Income.	Do.
"	" 92	Statement showing age of some Banks	Mr. D. B. Tilak.
"	" 93	Table showing dividend declared since 1942.	Do.
25-9-1952	" 94	Statement showing distribution of offices of his banks by population.	Do.
"	" 95	Statement showing scales of pay suggested. series.	Do.
"	" 96	Statement showing the liabilities and assets of foreign and Indian Banks as per average per branch.	Do.
"	" 97	Statement showing the percentage of rise and fall in deposits.	Do.
"	" 98	Statement showing Earnings and Expenses of Banks.	Do.
"	" 99	Statement showing earnings after deducting interest paid and expenses of Bank.	Do.
"	" 100	Statement showing real earnings after deducting interest and establishment charges.	Do.
"	" 101	Statement showing real earnings after deducting interest and other expenses of small Banks.	Do.
"	" 102	Statement showing Income Expenditure and Percentage for 1951.	Do.
"	" 103	Statement comparing gross earning and other expenses.	Do.
"	" 104	Statement showing real earnings after deducting interest, other expenses and salaries.	Do.
"	" 105	Statement showing number of staff per crore of deposits.	Do.
"	" 106	Statement showing cheque clearances and number of cheques cleared.	Do.
"	" 107	Statement showing cheques in clearings from 8-9-1952 to 12-9-52.	Do.

Date when marked	Exhibit No.	Description	By whom produced
29-9-1952	Ex. B 108	Statement showing depreciation in investments.	Mr. D. B. Tilak.
"	" 109	Statement showing average remuneration of clerks in 1951.	Do.
"	" 110	Do. Subordinates in 1951	Do.
"	" 111	Do Officers in 1951	Do.
"	" 112	List of employees of Salem Bank in Head Office and 11 Branches.	Salem Bank Ltd.
"	" 113	List of Branches of Salem Bank	Do.
"	" 114	Statement showing scales of pay and allowance from 1940.	Do.
"	" 115	Extracts from the speech of Shri Shantilal H. Shah.	Mr. Tanubha Desai.
"	" 116	Suggestions regarding classification according to areas.	Do.
"	" 117	Figures regarding cost of demands made by the AIBEA.	Do. (Treated as confidential under Section 21 of the I. D. Act, 1947.)
8-10-1952	" 118	Scales of Pay and Dearness Allowance	Bank of Bikaner Ltd.
"	" 119	Statement showing actual salary and allowances drawn and those admissible according to demands of All India Bank Employees Association.	Do.
"	" 120	Statement showing certain particulars for years 1949, 1950 and 1951.	Do.
"	" 121	Statement showing age and headquarters of Travancore-Cochin Banks.	Mr. A. S. Asayekar.
"	" 122 series.	Statement giving particulars of capital, deposits, reserve fund, number of employees etc. of banks in Travancore-Cochin.	Do.
"	" 123	Statement of Branches of Banks working in Travancore-Cochin State according to population figures.	Do.
"	" 124	Statement showing distribution of banking offices in the States of India.	Do.
"	" 125 series.	Statement showing scales of pay and dearness allowance for Government employees in Travancore-Cochin State.	Do.
"	" 126	Grades and scales of pay proposed on behalf of Banks in Travancore-Cochin State.	Do.
9-10-1952	" 127	Statement showing gross income, interest paid, gross earnings and establishment charges.	Punjab National Bank Ltd.
"	" 128 series.	Statement showing scales of pay proposed	United Commercial Bank Ltd.
10-10-1952	" 129	Statement showing total number of money-testers in Bombay Circle.	Imperial Bank of India.
"	" 130 series.	Statements (16) regarding scales of pay, trend of deposits etc. with covering letter.	United Banks of India. (Treated as confidential under Section 21 of the I. D. Act, 1947.)
"	" 131	Revised scales of pay and dearness allowance proposed.	Central Bank of India Ltd.

Date when marked	Exhibit No.	Description	By whom produced
17-10-1952	Ex. B 132	Statement showing paid up capital plus Reserves plus Deposits, Profits and Percentage of Profits.	Bank of Baroda, Ltd.
20-10-1952	" 133	Statement showing salaries and allowances under Sen Award and those actually drawn.	National City Bank of New York.
23-10-1952	" 134	Statement showing salaries of clerical staff.	Nationale Handelsbank.
28-10-1952	" 135 series.	Regarding Pension Fund : Particulars regarding members, Form of Agreement, Circular dated 15-7-1931, and proceedings at the 11th Annual General Meeting of the Shareholders (14).	Imperial Bank of India.
30-10-1952	" 136	Statement showing particulars regarding pensioners.	Mercantile Bank of India.
"	" 137	Statement showing grant of compassionate allowance.	Do.
3-11-1952	" 138	Re. Medical attendance on Officers and Assistants.	Imperial Bank of India.
"	" 139 series.	Statement showing cost of implementing Sen Award in respect of Medical Aid.	Do.
5-11-1952	" 140	Statement showing the percentage of establishment charges to gross income less depositors' interest.	Indian Bank Ltd.
7-11-1952	" 141 series.	Letter dated 18-3-52 from the Westminster Bank Ltd., London giving information regarding working hours and overtime of the big five banks of U. K. and the old and new scales of salaries prevailing there.	Bank of India Ltd.
"	" 142 series.	Certain particulars re. business hours on Saturdays in relation to working hours of staff.	Chartered Bank of I. A. and China.
21-11-1952	" 143 series	Statement of Guarantee Fund Accounts as on 31-12-51.	Punjab National Bank
26-11-1952	" 144 series.	Proposed scheme of adjustment	Central Bank of India
"	" 145	Scheme regarding adjustment of pay scales submitted before Shri H. V. Divatia.	Tanubhai Desai.
"	" 145A	Compromise arrangement between Grindlays Bank Ltd. and their workmen in the Shipping and Travel Dept. (Bombay).	Grindlays Bank Ltd.
28-11-1952	" 146 series.	Copies of correspondence between the Allahabad Bank and Govt. of U. P. re. Pension Fund.	Allahabad Bank Ltd.
"	" 147	List of categories of workmen to be excluded from the Award as to Hours of Work.	Central Bank of India
"	" 148	List of ex-members of the staff who were working in Pakistan and applied for compensation.	Do.
"	" 149	Certain particulars re. transfer of clerks during April, 1951 to May, 1952.	Do.

APPENDIX V

GRINDLAYS BANK LTD.—SHIPPING DEPARTMENTS

Special allowances for outdoor staff including godown staff, drivers and porters for early and late attendances.

	Outdoor and Godown Clerks	Lorry Drivers	Porters
When work commences within 1 hour before normal working hours or finishes within 1 hour after normal working hours	Rs. 1 8 0	Rs. 1 0 0	Rs. 0 12 0
When work commences more than 1 hour before normal working hours or finishes more than 1 hour after normal working hours	3 0 0	2 0 0	1 8 0

For the purpose of above, the normal working hours are to be considered as :

Outdoor and Godown Clerks	Week days and Holidays.	Sundays	} 10 a.m. to 6 p.m.*
	Saturdays		
Lorry Drivers and Porters	Week days and Holidays.	Sundays	} 10 a.m. to 6-30 p.m.*
	Saturdays		

Sundays and Bank Holidays.—When a man works for any length of time at any hour on a Sunday or Holiday, he will be entitled to above allowances if applicable and in addition he must be given a full day off on a working day not later than the 3rd subsequent working day.

Food Allowance.—Will continue to be paid as at present, i.e., when a man is unavoidably prevented from having his lunch or dinner in his usual way, and at the following rates :

Outdoor and Godown Clerks	Lorry Drivers	Porters
Rs. 2 0 0	Rs. 1 8 0	Rs. 1 0 0

Outdoor staff of the Shipping Department covered by this settlement will be free to leave at the end of the day's work at the same time as the Bank's staff if there is no outdoor work.

(Sd.) N. V. PHADKE,
(Sd.) N. A. PALKHIVALA.

(Sd.) Illegible.

(Sd.) Illegible.

Dated 26th November, 1952.

APPENDIX VI

NOTE.—The undermentioned provisions are suggested for incorporation in the Award that may be made by Sastri Tribunal regarding emoluments for United Bank of India Limited:

Provided however that the emoluments awarded hereinbefore for United Bank of India Ltd. (hereinafter called "the Bank") shall be subject to a 'Ratio' that the total emoluments for the 'Employee' of the Bank, for the year 1949, bear to 'Average Deposits' for the said year of the said Bank (mentioned hereinafter as the "Permissible Ratio").

I. Definitions.—(i) The word 'Employees' shall mean 'Employees of the Bank entitled to be a party to the Industrial dispute'.

(ii) The words 'Average Deposit' shall mean one fifty-second of the total of balances of deposits of the Bank, at the close of each of the Fridays of a year, as reported to Reserve Bank of India under section 42(2) of Reserve Bank of India Act.

(iii) The words 'Actual Ratio' shall mean the ratio that the total emoluments of the employees of the Bank for a year bear to the 'Average Deposit' of the Bank for the said year.

*The above timing include lunch interval.

(iv) The words 'Scheduled Banks Ratio' shall mean the ratio that the total emoluments for the employees of all the scheduled Banks in India, for a year, bear to the total deposits as at the close of the year, of all the scheduled Banks in India.

(v) The words 'Indian Scheduled Banks' shall mean all scheduled Banks incorporated in India.

II. The principal officer of the Bank shall certify the 'Actual Ratio', for the years 1949, 1950 and 1951 of the Bank, within a month of publication hereof and subsequently for the succeeding years within six months, from the date of closing of the books for the particular year and display a copy of the same in each of the places of business in India. In case of any dispute as to correctness thereof, a confirmation of the same by the statutory auditors of the Bank shall be final. A copy of the certificate and confirmation, if any, shall be duly submitted to the Labour Commissioner for the region within a fortnight from the date of making of the certificate and the confirmation.

III. On the 'Actual Ratio' of the Bank for the previous year being less than the aforesaid 'Permissible Ratio' of the said Bank, the terms of emoluments awarded herein, shall apply unrestricted for the purpose of determining the emoluments for the year concerned for the employees of theBank.

IV. (i) On the 'Actual Ratio' for the previous year being higher than the 'Permissible Ratio', the emoluments payable for the year concerned shall be the actual emoluments of each category paid to each of the employees during the previous year (e.g. if the actual ratio for the Bank in 1951 was 1.35 per cent. against a permissible ratio of say 1 per cent. then the emoluments of each category for 1952 shall be paid at the same rate for each category as in 1951).

(ii) Any payment made in excess during a year, prior to determination of the 'Actual Ratio' for the year, shall be recovered in equal instalments during the remaining months of the said year, or in six equal monthly instalments, whichever is longer.

V. It is further provided that in case of the 'Actual Ratio' for any year (commencing from 1951), being higher than the 'scheduled Banks Ratio' for the previous year by 20 per cent. or more—

(i) the 'Permissible Ratio' for the Bank, shall be the 'Scheduled Banks Ratio' for the year 1951, for the purpose of the provisions of Clauses III and IV hereof,

(ii) the basic salary and increments payable to the employees of the Bank, during the year, in terms of the award hereof, shall stand scaled down, as provided herein after:

(a) If the actual 'Ratio' is higher than the 'Permissible Ratio' by 20 per cent. or more—by $12\frac{1}{2}$ per cent.

(b) If the actual 'Ratio' is higher than the 'Permissible Ratio' by 40 per cent. or more—by 25 per cent.

VI. In the circumstances under which the Bank will be eligible for relief under provisions of Clause (v) hereof, payment for overtime work, shall not have to be made for the first hour of overtime work, and for every subsequent hour, overtime shall be payable at $1/30$ th of Basic Salary for every 4 hours.

NOTE.—As to Clause V(i), Reserve Bank of India will have to be requested to publish the 'Ratio' for 1951.

[No. LR.100(57).]

P. S. EASWARAN, Under Secy.

